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JAMMU AND KASHMIR

AN AGENDA FOR THE FUTURE

by

KANTI BAJPAI, DIPANKAR BANERJEE,
AMITABH MATTOO, SALMAN KHURSHID,
ARUN VARMA, AND B G VERGHESE

DELHI POLICY GROUP
March 1999

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DELHI POLICY GROUP
Core 5-A, Core 5A, First Floor
India Habitat Centre
Lodhi Road
New Delhi-110 003

Tel.: (91) 11-4649571
Fax: (91) 11-4649572

E mail: dpgroup@del2.vsnl.net.in
Website: http//www.dpgroup.org

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Preface

In May 1997, the Delhi Policy Group sponsored a study on Jammu & Kashmir under the co-directorship of Kanti Bajpai, Dipankar Banerjee and Amitabh Mattoo. The project was undertaken in four phases. In phase one, Dipankar Banerjee, Salman Khurshid, Arun Varma and B.G. Verghese wrote background papers on internal security, foreign policy, economic development and centre-state relations respectively. These were completed by September 1997. In phase two, between June and October 1997, Bajpai, Banerjee and Mattoo conducted field work in Srinagar, Jammu, Ladakh and New Delhi, which involved inter-acting with a wide cross section of experts and other individuals. In addition they were briefed by the Ministry of External Affairs and the Directorate General of Military Operations. In November, Bajpai, Banerjee and Mattoo wrote the first draft of this report. The draft report was presented to the Trustees and Directors of the Delhi Policy Group in December 1997. The final report draws extensively from the background papers, the information provided by many of the respondents and the discussions (formal and informal) at the Delhi Policy Group. This was later presented at the India International Centre in May 1998, at a seminar of specially invited participants. The summary of the seminar proceedings attempts to convey the sense of the response that it evoked.

We hope that the report and the recommendations pertaining to the better management of the affairs of Jammu & Kashmir will assist the nation's policy makers in finding the right answers.

New Delhi

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Executive Summary

This report makes a number of recommendations about how to bring about peace and tranquillity in Jammu and Kashmir. It bases its recommendations on the assumption that the militancy has lost considerable ground and that an elected government has taken office and is likely to remain in office in the State for the foreseeable future. It also assumes that, while the militancy is down, it is not out.

Our recommendations are organised in four sections: Centre-State relations and regional balance; governance; security; and foreign policy. Centre-State relations have been at the heart of the differences between the State and the Government of India. These differences have been compounded by difficulties relating to governance. Governance here refers to a number of areas but principally development issues and administration, broadly conceived, including the judicial and legal system. The dispute over Centre-State relations and bad governance have contributed to, or at least rationalised, the resort to violence by the militants. The internal and external security problems of the State are the most serious immediate challenges, even though the situation has greatly improved. Finally, India's handling of the problems of Jammu and Kashmir is influenced by foreign powers, particularly by Pakistan which has been deeply involved in fostering and sustaining the militancy.

Centre-State Relations and Regional Balance

Centre-State relations can be restored to health and a sturdier regional balance created by a seven-point plan. First, we believe that the nomenclature, Sadar-I-Riyasat and Wazir-e-Azam for the Governor and Chief Minister, respectively, as was the case until the early 1960s, should be restored.

Second, the State should be given a role in the selection of the Governor. Three methods are available for doing so: election by the State legislature; or, preferably, selection from a panel of names to be submitted by the Legislature; or legislative approval of a name submitted by the President.

Third, Article 356, which deals with the breakdown of the constitutional machinery in a State and which has been widely criticised in other States, should not be misused. The team recommends that elections should be held within a maximum of six months from the use of Article 356 provisions. If this is not possible for reasons of instability, the report endorses the view of the 1983 Srinagar declaration which promises that the President would consult the Inter-State Council. The team also suggests that an Eminent Persons Group review the situation in the State every three months in case elections cannot be held within six months.

Fourth, we recommend that the State services be revitalised. A number of steps can be taken. These include increasing the quota of promotees from the State services to the Central services for a period of twenty years, improving selection and training, and speeding up promotions.

Fifth, on the basis of Article 324 (4), we recommend that a Regional Election Commissioner for Jammu and Kashmir be appointed to assist the Election Commission of India. Negotiations with representatives of the people of the State will be necessary for a more extended revision of Centre-State relations. A provision may need to be introduced into the Constitution which would necessitate a referendum in the State to ratify any major amendments that would affect its ties with the Centre.

Sixth, we recommend the following measures

to ensure a harmonious balance between Jammu Kashmir and Ladakh:

- The provinces of Jammu and Kashmir should each have roughly equal representation in the Cabinet. If the Chief Minister is from one province, the Deputy Chief Minister should be from the other
- The Ladakh Autonomous Hill Development Council should be strengthened, granted police powers, and the Deputy/Development Commissioner should be made directly accountable, in letter and in spirit, to the LAHDC
- Long-neglected ethnic, religious and linguistic minorities must have seats reserved for them in the legislative assembly. Pandits, Gujjars and Bakerwals should particularly be given a voice in the legislature.
- A five-tier federal structure should replace the present Panchayati Raj three-tier structure. This would include, at the apex, the legislative assembly and the gram sabha, the block samiti, the zila parishad and regional legislative councils for the three provinces with adequate reservations for minorities.

Seventh, the residuary powers of the Constitution of India must be given back to the State.

Governance

We believe that there are four essential prerequisites to ensure good governance in Jammu and Kashmir: first, a strong and stable economic infrastructure that can help to unleash the entrepreneurial potential of the people of the State as well as generate employment; second an accountable, streamlined and people-sensitive administrative machinery; third, a speedy grievance redressal system that includes an upright and effective judiciary; and fourth, a revival of Kashmir's traditionally tolerant society and its expression in the form of Kashmiriyat. All four have been absent in the State through most of this decade. Only once these are in place can we hope to have an economically viable and politically and socially stable Jammu and Kashmir.

We strongly believe that plans for the economic resuscitation of the State must remain rooted in its strong agricultural and especially horticultural base. Strengthening the cooperative movement should be an important element. Power generation is a key priority, with the State capable of generating close to 15,000 MW of hydroelectric power. It could then become an exporter of power. However, we also feel that the transmission and distribution of power must gradually be shifted to the private sector. Central assistance towards power generation is vital, and Jammu and Kashmir has a legitimate claim to receive such assistance since the Indus Water Treaty of 1960 curtailed the State's rights on the upper Chenab, Jhelum, and Indus for purposes of even non-consumptive hydroelectric storage and diversions within these basins.

Education, up to the post graduate level, is free in Jammu and Kashmir, and yet less than 30% of its population is literate. There are nearly 1,50,000 educated unemployed but there is also a shortage of skilled workers. These are only some of the ironies of the State's skewed educational policy. We recommend that the State Government prioritize primary vocational education. It may be necessary to stop providing free education beyond the 12th class and use the additional resource so generated to strengthen lower levels of education.

While only 30,000 people were directly dependent on tourism during the peak of traffic in 1987-88, tourist inflows can and do have a huge multiplier effect. More important, the return of tourists can be of great psychological importance: economic and political normalcy is often equated with the presence of tourists. Regular tourism may not immediately revive, but the State can actively pursue Yatra and adventure tourism. Vaishno Devi in Jammu, the Amarnath Cave in Kashmir, and the Hemis and other gumpas in Ladakh have already become pilgrimage centres. With better facilities, these pilgrimage sites will become even more popular. There is clearly also an NRI tourist market waiting to be tapped and the conversion of Srinagar airport into an international one, with facilities to at least receive charter flights, will greatly facilitate this. The rail link to Srinagar is

vital for both strategic as well as tourist reasons, as is an all-weather road to Leh from Srinagar.

The State services, particularly the Kashmir Administrative Service and the Kashmir Police Service, are today in a parlous condition. Until 1997, there had been no recruitment for thirteen years. We believe that recruitment must be regular. Other measures for revitalising these services include improved training and secondment with the central government for three years after initial training. At the same time, we recommend that the state government reduce the total number of employees by 25 percent over the next ten years.

The State Government had announced the formation of a human rights commission in 1996, but the Commission has only just begun working. It is vital that the Commission be strenthened and be as independent of the government as is possible. Such a commission will provide the ordinary citizen a much-needed institutional outlet for the redressal of grievances.

The judiciary needs to be restructured, especially at the district and sessions level. We recommend that the State Government, in consultation with the Chief Justice of the Supreme Court, appoint a legal reforms committee. For the long term, the State Government should consider establishing a State Law School on the lines of the National Law School in Bangalore.

The print and electronic media have flourished since 1989, but have been beset by a lack of professionalism. We feel that the Media Education Research Centre in the University of Kashmir should be strengthened, equipped with state-of-the-art facilities, and an internship programme with the national dailies should also be introduced.

Only the revival of Kashmir's traditional civil society, based on the syncretic cultural ethos of Kashmiriyat, can generate social stability in the long term. It is vital, therefore, that Kashmiri Pandits be rehabilitated in the Valley. Pandits will return, it is clear, only if they are assured of an honourable and secure life in the Valley. On the one hand, the State Government must provide adequate security assurances to all those who are willing to return and give their property back to them. On the other hand, the State Government must encourage a dialogue between Pandits and Muslims at the village and mohalla levels. A blanket ban on the sale of Pandit property has been introduced and must be continued. Specific incentives can be provided to NGOs to promote confidence-building-measures between the two communities.

Internal Security

The security threat to Jammu and Kashmir arises essentially from Pakistan's support of the various militant groups. Pakistani strategy is likely to remain a dual one - increasing the use of foreign Islamic mercenaries and escalating the intensity of militant strikes through the use of Improvised Explosive Devices (IEDs) and other more sophisticated weapons. India's response has been effective, especially after the initial period of the insurgency. Thus, we support the general approach that guides security operations.

First, since Pakistan is likely to continue to infiltrate militants into the State, managing the Line of Control must continue to be a priority requiring a four-tier patrolling system, real time intelligence gathering and sharing, a dynamic leadership style from local commanders, and improved interdiction technologies.

Second, a Unified Headquarters has served the counterinsurgency effort well and should be maintained. It requires a dedicated staff drawn from different services, should meet more often, and should be organised at four levels - the State, sub-State, Divisional, and District levels. At the District level, we recommend that the authorities oversee the implementation of policies and monitor development projects. This will require District HQs to have some financial authority.

Third, the deployment of some quantum of forces in a counterinsurgency (CI) grid should continue until peace and tranquillity is more or less assured.

Fourth, the Rashtriya Rifles (RR) should be the main counterinsurgency force. The officers of the RR should be drawn from the regular Army, and the force should be organised on a regimental basis. The BSF should be used as a subsidiary force, and if it is to continue in its counter–

insurgency role it should have a special wing for these duties. This wing should have younger personnel, should be specially organised and trained for its special duties, and should adopt a regimental system. The J&K Police force must ultimately bear the brunt of policing. It must be enlarged, its training must be improved, and its morale needs to be repaired. Regular promotions, a system of rewards for meritorious service, better equipment, and improved housing are among the measures required to boost morale.

Fifth, the Indian Army must keep up with the growing technological sophistication of the militants. Four areas deserve priority: acquisition of a light combat weapon, better crowd control weapons, specialised communication and transmission detection systems, and lightweight personal protection gear.

Sixth, local resistance must be strengthened by the setting up of Village Defence Committees and Village Defence Guards who are given a modicum of training, arms, and communications facilities.

Seventh, various weaknesses in the intelligence system must be remedied.

Finally, the 'friendlies' and surrendered militants must be rehabilitated. Protected housing, stipends, and employment in the paramilitaries, police, forest protection force and Village Defence Committees are measures that have already been taken or are under active consideration. We support these. Additionally, a programme of skill enhancement and self-employment loans is vital for the long term.

Foreign Policy

India's foreign policy in respect of the Kashmir problem has been deft enough over the past several years. But we believe that the time has come to go further. The central recommendation of the team is that India should pursue a strategy of cooperation with Pakistan while continuing to discuss a final settlement of the dispute over Kashmir. In 1981, India began a process of cooperation and negotiation with China. New Delhi embarked on a process of diplomatic normalisation which included cooperation in a number of fields. It also started discussion on a final settlement of the border dispute. We recommend an analogous process with Pakistan, notwithstanding the events of May 1998 and since.

We strongly urge that India embark on a more ambitious programme of cooperation with Pakistan. The first part of such a programme will involve military cooperation including a no-war pact, confidence-building measures (CBMs), a defensive defence posture, and a nuclear safety, assistance, and collaboration zone (NSACZ). The first component of the NSACZ would consist of three declarations — no first use, no use against non-nuclear powers and no use against population centres. The second component of the NSACZ would require the setting up of a crisis management centre, a dedicated hotline between the nuclear establishments, and an exchange programme between nuclear scientists. The third component of the NSACZ would be joint investment in and manning of nuclear reactors that are designed and located to meet the region's energy needs.

The second part of a programme of cooperation with Pakistan is a political one focussed on settling the smaller disputes, especially Siachen, but also Sir Creek and Wullar. The two countries came close to agreement on all three issue in the early 1990s. We urge that the near-agreements be dusted off and that negotiations move forward.

The third area of cooperation is economic. India must engage Pakistan on trade by making concessions on Pakistani exports, facilitating visas for Pakistani businessmen, and encouraging contacts between business associations. On energy, India should revisit the issue of oil pipelines from the Gulf and Central Asia via Pakistan. Other schemes, involving Bangladesh as well, should be high on the energy cooperation agenda.

Fourth, track two contacts at a variety of levels should be encouraged by India so that a much higher degree of social cooperation is achieved. Contacts between former officials, academics, professional bodies, business and industry, travel and trade association, parliamentarians and NGOs, media and publishing should be enlarged, even if this means unilateral action by India.

Finally, India should take advantage of the

geopolitical situation after the Cold War to build new relationships with third parties who could help bring Pakistan round to a programme of cooperation. Key third parties include the United States, China, and the Muslim countries. Maintaining a nuclear dialogue with the U.S., continuing the border and CBM talks with China, expanding economic relations with both the U.S. and China, and using Saudi Arabia, Iran and the Central Asian states in a limited good offices role are key policy directions to pursue.

These recommendations are ambitious. They cover a number of areas. Some are vital in the near and medium term; others clearly are long term endeavours. However, nothing less than a thorough and systematic programme of action will suffice if the troubles of Kashmir are to be ended. Quite a number of the problems of Kashmir are to be found in other States and commensurately some of the recommendations we make apply to other parts of the Union. The programme that we outline here, therefore, has wider implications.

Members of the Independent Study Team

Salman Khurshid is former Minister of State for External Affairs of the Government of India. He is a prominent leader of the Indian National Congress and a lawyer for the Supreme Court of India.

B.G. Verghese is Research Professor at the Centre for Policy Research, New Delhi. He has been editor of *The Hindustan Times* and is one of India's best known journalists.

Arun Varma is the Press Trust of India's news coordinator. He heads PTI's project on real time business information. He has worked with *India Today* and *The Telegraph*. He was awarded the K.K Birla Foundation Fellowship in 1994.

Kanti Bajpai (Project Co-Director) is Associate Professor at the School of International Studies, Jawaharlal Nehru University, New Delhi. He has been Resident Fellow at the Rajiv Gandhi Institute for Contemporary Studies, New Delhi, and was a visiting professor at Wesleyan University and the University of Illinois, Urbana-Champaign.

Dipankar Banerjee (Project Co-Director) is Co-Director of the Institute for Peace and Conflict Studies, New Delhi. He retired as a Major General from the Indian Army and served as the Divisional Commander in the Kashmir Valley where he was in charge of Counter-Insurgency Operations. He has been Deputy Director of the Institute for Defence Studies and Analyses, New Delhi.

Amitabh Mattoo (Project Co-Director) is Associate Professor at the School of International Studies, Jawaharlal Nehru University. He has been an editor with *The Telegraph* and *The Independent*, a Brockhues Scholar at the University of Oxford and a Visiting Faculty Fellow at the University of Notre Dame. He is a native of Kashmir and turned down a career in the Indian Police Service.

Introduction

This report recommends a plan of action for Jammu and Kashmir after two rounds of elections in the State and after two parliamentary elections. A good deal of writing and thinking has gone into the politics of the accession, the roots of Kashmiri disaffection, and the causes of the present insurgency. However, the key question now is how to deal with the new situation in Jammu and Kashmir. The Central government and the State government have already gestured at and set in motion various restitutive measures and are examining the question of political and financial autonomy. Unfortunately, neither level of government appears to have put together a coherent programme.

There is a window of opportunity in Jammu and Kashmir, and a systematic programme of action is necessary. By all accounts there is a widespread yearning for peace. Militant groups continue to be active, but militancy has lost a great deal of popular support. Elections have been held and a new representative government is in place. "Peace with Dignity" is a slogan that best captures the current mood of the people. Whether this widespread support for stability will translate into reality will depend in large measure on the policies of the new State government and the support of the Centre.

This report is organised in four sections, each dealing with a key issue in Kashmir policy: Centre-Stare relations and regional balance; governance; security; and foreign policy. Many of the concerns in each of these areas have been felt by other States, and the Sarkaria Commission has dealt with some of them. In particular, the discomfort with federal relations is not exclusive to Jammu and Kashmir.

Broadly, the report has tried to answer the following questions:

- A central issue in Jammu and Kashmir is autonomy. How can Article 370 be made vital? How can the Kashmiri feeling that autonomy has been compromised be handled?
- A long term solution to the militancy requires good governance, that is, rational administration and a feasible economic development programme. How can the Central and State governments promote these?
- The role of security forces in Kashmir remains crucial. What should be the role of security forces in the future? What forces should be used and in which context? How should these forces be structured, organised, and deployed?
- Limiting foreign intervention in the Valley is vital if peace is to be realised. How should India go about minimising the role of Pakistan or others who have materially or diplomatically intervened to complicate the resolution of the Kashmir problem?

The report makes a list of recommendations in the four areas. Amongst its key prescriptions are:

Centre-State Relations and Regional Balance

- select the Governor of the State in one of three ways, all of which give the State legislature a role
- ensure that misuse of Article 356 is stopped, by holding elections within a maximum of six months
- appoint a Regional Election Commissioner
- restore residuary powers to the State
- create regional balance

Governance

- make power generation a key priority
- give more emphasis to primary and vocational education
- energise the State civil services including the judiciary and legal profession
- strengthen the State's human rights commission
- rehabilitate the Kashmiri Pandits

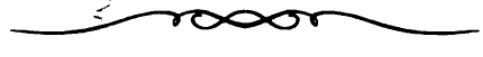
Internal Security

- improve management of the Line of Control
- maintain the armed and paramilitary forces in the counterinsurgency (CI) grid
- improve the technical capabilities of the armed and paramilitary forces
- strengthen local resistance to the militants by setting up Village Defence Committees
- rehabilitate the 'friendlies' and surrendered militants

Foreign Policy

- reconvene the Foreign Secretaries meetings and hold talks on Kashmir.
- pursue a programme of military cooperation with Pakistan including a no-war pact, confidence-building measures, defensive defence, and a nuclear safety, assistance, and collaboration zone (NSACZ)
- reopen the Siachen negotiations, as also Sir Creek and Wullar
- engage Pakistan on economic issues including trade and energy
- encourage a range of track two contacts with Pakistan
- pursue a cooperative agenda with various third parties who could influence Pakistan including the U.S., China, and various Muslim countries.

A number of points may be made about this list of recommendations. First, they are based on four papers written specially for the report by members of the team. The papers were supplemented by a series of interviews conducted in Jammu, Srinagar, Leh and Delhi. Second, this is an ambitious set of prescriptions. No government can implement all its components at once. While some policies require immediate attention, others are for the medium or long term. However, we believe that an integrated and comprehensive set of policies is necessary if peace and stability are to be achieved. Third, responsibility for taking this agenda forward rests with both the Central and State governments. A number of issues will have to be tackled more directly by the Central government, others by the State government. In general, a high degree of cooperation between the two levels of government will be essential. Fourth, a number of these recommendations are of wider significance and apply to other States. We do not believe that this dilutes our report in any way; indeed, it increases the importance of many of our recommendations. Jammu and Kashmir has special problems, but these are not altogether unique. The potential solutions or melioratives are not sui generis either. We hope that our report is at least suggestive of measures that will have to be considered in other States.



CHAPTER 1

Centre-State Relations and Regional Balance

The quest for political autonomy, unfettered by changes in the political leadership at the State or the central level, is widely recognised as an important factor in the problems of Jammu and Kashmir. A majority of respondents from the Valley identified the "issue of autonomy" as the key to sustainable peace and stability in the State. The present government of Jammu and Kashmir, headed by the National Conference, has appropriately set up two "autonomy" committees. The first committee will make recommendations on a general framework of autonomy which can be debated and negotiated with the Centre. The second one will report on provincial autonomy within the State. The Government of India too has expressed its willingness to consider greater autonomy for Jammu and Kashmir. In 1995, Prime Minister Narasimha Rao spoke of "anything short of independence", and in 1996, Prime Minister Deve Gowda referred to "maximum autonomy".

We believe that it is possible to strike a harmonious balance between the need to integrate Jammu and Kashmir within the national mainstream and the State's demand for autonomous self governance. If this balance is struck, Jammu and Kashmir could become a model of 'cooperative federalism', a 'special' model that could be gradually applied to other States of the Union. Such a plan, we are sure, will in no way compromise the unity or integrity of the country.

Jammu and Kashmir is Special, but not Uniquely Special

The fact that Jammu and Kashmir is different by virtue of the terms of the accession has been upheld by the Supreme Court of India in 1984. In Khazan Chand versus the State of Jammu and Kashmir, the Court unambiguously held that the State "holds a special position in the constitutional set up of the country".

The October 1983 Srinagar Declaration, adopted by the Opposition conclave that included Mr. Inder Kumar Gujral, Mr. Jyoti Basu, Mr. Chandra Shekhar and Mr. Prakash Singh Badal, stated that the special constitutional status of Jammu and Kashmir "should be preserved and protected in letter and spirit."

The Instrument of Accession, signed on 26 October 1947, is the basis of the State's accession to India. The legality of the Instrument of Accession - which was unconditional and absolute-is beyond doubt. Through the accession, Jammu and Kashmir transferred jurisdiction to the Government of India in External Affairs, Defence and Communications; India's Parliament was given the power to make laws for the State in these three subjects only. When India adopted its Constitution on 26 January 1950, it was Article 370 which became the basis for Jammu and Kashmir's relationship with India. Article 370, inter alia, also made it clear that the power of the parliament to make laws for Jammu and Kashmir will be limited to:

(i) those matters in the Union List and the Concurrent List which, in consultation

with the Government of the State, are declared by the President to correspond to matters specified in the Instrument of Accession governing the accession of the State to the Dominion of India and the matters with respect to which the Dominion Legislature may make laws for that state; and

(ii) such other matters in the said lists, as, with the concurrence of the Government of the State, the President may by order specify.

Immediately after the adoption of the Constitution of India, therefore, the jurisdiction of the Union remained confined to the three areas specified in the Instrument of Accession. The essence of the Article is clear. The terms of Article 370 shall not be varied in the direction either of enlarging or diminishing the centre's jurisdiction in matters relating to Jammu and Kashmir or abrogating the Article altogether without the concurrence of the State. The President of India's Constitution (Application to Jammu and Kashmir) Order of May 1950, in consultation with Sheikh Abdullah's government, harmonized these three subjects with the appropriate items in the Union List of the Seventh Schedule and other parts of the Indian Constitution. Two schedules were appended. The first schedule listed the relevant items in the Union list for which the jurisdiction was extended. They were the following:

1. Defence: Entries 1 to 6
2. Preventive Detention for the reasons connected with defence, foreign affairs and the security of India: Entry 9.
3. Foreign Affairs: Entries 10 to 22.
4. Communications: Entries 25 to 31.
5. Trade and commerce with foreign countries: Entry 41.
6. Matters relating to election of members of parliament, their salaries and powers etc.: Entries 72 to 74.
7. Miscellaneous items: Entries 93 to 96.

The Concurrent and the State List were not applicable to Jammu and Kashmir. The second schedule set out the Parts/Articles of the Constitution that would be applicable to Jammu and Kashmir in addition to Articles 1 and 370.

Jammu and Kashmir is the only state of India which has a constitution of its own. There is, however, an organic nexus between the State and Indian constitutions. The Preamble to the Jammu and Kashmir constitution drawn up in "pursuance of the accession of this State to India", and more specifically Section I, asserts that "That the State of Jammu and Kashmir is and shall be an integral part of the Union of India."

It is crucial to note that Jammu and Kashmir is not the only state that enjoys a distinctive constitutional position. The Indian Constitution is extremely flexible and pragmatic and has carved out a number of territorial and non-territorial exceptions. The Scheduled Castes and Tribes, Other Backward Classes and minorities enjoy certain preferences. Articles 371 and 371-A to 371-I list special provisions pertaining to the States of Maharashtra and Gujarat, Nagaland, Assam, Manipur, Andhra Pradesh, Sikkim, Mizoram, Arunachal Pradesh and Goa. Article 290-A contains special provisions pertaining to Kerala and Tamil Nadu. The Fifth and Sixth Schedules also prescribe a special dispensation for certain tribal areas. The Constitution preserves unity with diversity in many ways.

Towards Meaningful Self Governance

Accords and agreements of the past are historical markers, not the basis on which a model for autonomy should be worked out today. Some parts of the Delhi Agreement of 1952 or the Beg-Parthasarthy Accord of 1975, for instance, may obfuscate rather than clarify the issue of meaningful self governance. They need not be treated as the only reference points for a serious plan for autonomy. The jurisdiction of the Union Parliament on the three original subjects-as applied by the Presidential Order of 1950 - needs to the considered sacrosanct, and the subsequent extension of jurisdiction starting from the Constitution (Application to Jammu and Kashmir) Order, 1954, can, in principle, be re-negotiated between the Union and representatives of the State. We are, however, convinced that meaningful

autonomy can be restored to Jammu and Kashmir by implementing a relatively simple five-point plan.

A Practical Plan for Autonomy

Restore Nomenclature

The terms Sadar-I-Riyasat and Wazir-E-Azam which were used, until 1965, for the Governor and the Chief Minister of the State still have important symbolic value. Literally translated they stand for Head of State and Prime Minister. This nomenclature should be restored. In substance, this change will neither enlarge nor diminish the powers of the Governor or the Chief Minister. This will also not lead to a shift in their order of precedence.

Grant the State a Role in the Selection of the Governor

According to Article 155 of the Indian constitution the "Governor of a State shall be appointed by the President by warrant under his hand and seal." Until 1965, the Sadar-I-Riyasat of Jammu and Kashmir was elected by the State legislature, but (by viture of the Delhi Agreement of 1952) it was clear that he should be a person acceptable to the Centre and be appointed by the President. The Governor is widely viewed in Jammu and Kashmir as an instrument through which the Centre-and more often the political party in power-has furthered its interests in the State. This is unfortunate. The office of the Governor, in whom the Constitution vests the "executive power of the State", should be above narrow partisan politics. We, therefore, recommend three alternative methods by which the Governor may be appointed:

(i) The Governor could be elected by the State legislature and appointed by the President and by viture of Article 156(1) hold office at the pleasure of the President.

OR

(ii) The State government could submit a panel of names and the President would appoint as Governor the person he finds most suitable from the panel, and he would hold office at the President's pleasure.

OR

(iii) The President would submit a name which the legislature might endorse. The President could then appoint the governor and the latter would hold office at his pleasure.

Prevent Misuse of Article 356

Article 356 deals with "Provisions in case of failure of constitutional machinery in States." The misuse of Article 356 is a matter that has caused widespread concern in all states. The matter is being considered by the Inter-State Council and some agreed modifications and safeguards might emerge. Given, however, the sensitive position of the State, we believe that it would be imprudent and impractical to exempt Jammu and Kashmir from the purview of this Article altogether, although the State was brought under its purview only in 1964. We, however, recommend that in case of a constitutional breakdown in the State-in the future-provision should be made for holding elections within a maximum of six months. We also agree with the recommendation made in the October 1983 Srinagar declaration:

"If, however, elections cannot be held [within six months], due to such violence as disrupts the normal life making it impossible for a fair and free election, the President will consult the Inter-State Council as proposed in Article 263. Following that, he will place the opinion of the Inter-State Council before Parliament for a decision for the imposition of President's rule for a period not exceeding six months, or otherwise."

In addition to the above, or as an alternative, we recommend that the President appoint an Eminent Persons Group to review the situation in the State, every three months, in case elections cannot be held within the first six months.

Give the State Services More Authority and Increase the Quota for the State in the All India Services

Part XIV of the Constitution pertaining to Services under the Union and the States did not apply initially to Jammu and Kashmir. But the provisions of Article 312 relating to All India Services were

extended in 1958. Under the scheme, entry is both by direct examination and selection, by the Union Public Service Commission, of promotees from the State civil service. In most States, the promotee quota has been around 33 percent, but in the case of Jammu and Kashmir this has been 50 percent.

The bulk of direct recruits to the All India Services (Indian Administrative Service, Indian Police Service and Indian Forest Service) are from just about a dozen colleges/universities in India. There is reason to expect that, as elsewhere, with improvements in the quality of education in Jammu and Kashmir, the number of direct recruits from the State will increase in the years ahead. Even otherwise, we recommend that the Jammu and Kashmir selection quota (from within the State services) be increased for a period of twenty years given the disruption that the educational system in the state has faced over the last decade. We also feel that the Kashmir Administrative Service (K.A.S.) and the Kashmir Police Service (K.P.S.) have suffered severe neglect and marginalisation over the last decade. Part of the problem has to do with the lack of proper selection procedures and training (see recommendations on Governance), but it is crucial that gradually officers from the K.A.S. and the K.P.S. are given positions of greater authority and that promotions are faster than they are currently. We recommend that steps be taken to ensure that, in the next ten years, K.A.S. and K.P.S. officers have a career track similar to that of I.A.S. and I.P.S. officers. The distinction between 'cadre' and 'non-cadre' posts too needs to be urgently reviewed.

Appoint a Regional Election Commissioner for the State

The impartiality of the Election Commission of India has come to be gradually respected, despite certain past electoral aberrations. We, however, recommend that a Regional Election Commissioner for Jammu and Kashmir be appointed by the President - as provided for in Article 32 (4) of the Indian Constitution -to assist the Election Commission in the conduct of elections in Jammu and Kashmir. This appointment could be made by the President on the recommendation of the State government/legislature before each election.

Restore Residuary Powers to the State

Under the President's Constitution (application to Jammu and Kashmir) Order (1954), all residuary powers were vested in the State save Parliament's power of making laws "with respect to disclaiming, questioning or disrupting the sovereignty and territorial integrity...cession...or secession of part of the territory of India from the Union or causing insult to the Indian national flag, Indian national anthem or this Constitution." This status was changed in 1985 and under Article 248 and Entry 97 residuary powers were given to the Union. It enabled the extension of TADA into Jammu and Kashmir. This must change. Residuary power must be given back to the State.

Create Greater Regional and Sub-regional Balance

Kashmir's grievances against New Delhi are as great as Jammu's and Ladakh's with Srinagar. These regional rivalries have long been evident in Jammu and Kashmir, not surprisingly in view of the divergent histories and socio-cultural backgrounds of the territories in question. The Glancy Commission was appointed by the Maharajah in 1931 to address regional and communal imbalances in the State. Subsequent discontent in Jammu in particular resulted in the appointment of the Gajendra Gadkar Commission in 1967 to look into regional disparities. The State government's unwillingness to accept or implement recommendations led to further agitation which compelled the Government to appoint the Sikri Commission in 1978.

We recommend the following measures:

- The provinces of Jammu and Kashmir should each have roughly equal representation in the Cabinet. If the Chief Minister is from one province, the Deputy Chief Minister should be from the other
- The Ladakh Autonomous Hill Development Council should be strengthened, granted police powers, and the Deputy/Development Commissioner should be made directly

accountable, in letter and in spirit, to the LAHDC

- Long-neglected ethnic, religious and linguistic minorities must have seats reserved for them in the legislative assembly. Pandits, Gujars and Bakerwals should particularly be given a voice in the legislature.
- The five-tier federal structure proposed in the 1970s by the Sheikh Abdullah government should replace the present Panchayati Raj three-tier structure. This would include the gram sabha, the block samiti, the zila parishad and regional legislative councils for the three provinces with adequate reservations for minorities in the provinces. The powers of the regional council should not compete with the legislative assembly, which would remain the supreme legislative body, but all new bills would have to be routed through the Council(s) and first passed by it (them) before it is sent for approval to the assembly. The present Legislative Council can then be abolished. The Panchayats must also be given adequate financial powers from the gram sabha level.

Transparent and Fair Negotiating Process

We have recommended a five-point practical plan for autonomy. But the precise definition of the quantum of autonomy that Jammu and Kashmir requires for meaningful self governance must be settled on the negotiating table between representatives of the Government of India and the people of the State. It may be essential to conduct special elections to elect fresh representatives who will negotiate with New Delhi. Only then can any "deal" be sustainable in the long term.

Electing representatives through first-past-the-post single-member constituencies may not be appropriate as it would leave a large number of social and political groups unrepresented. One way of conducting these special elections is on the basis of Proportional Representation. All political groups and parties-representing the entire ideological spectrum as well as different communities-must be encouraged to contest. Any group which gets, say, more than one percent of the votes polled should be eligible to have its representatives on the negotiating table. This would ensure that militant outfits-which have eschewed violence-as well as minority groups find a political voice. It is also very important that these elections are free and fair and are seen to be so. Alternatively, all major political groups in the State can be asked to nominate their representatives.

Guarantees for the Future

Many people in Jammu and Kashmir genuinely fear that even if a package of autonomy is worked out, a future Central government may, in collusion with the State's political leaders, renege on an agreement that is made today. This is based on the past experience of the State's relationship with the centre. It is essential, therefore, to introduce specific Constitutional guarantees to see that the State's autonomy is not once again eroded. It may, for instance, be necessary to introduce a provision in the constitution which would provide for a referendum in the State before any major amendment, that would affect the State's ties with the Union, becomes a law.

CHAPTER 2

Governance

We believe that there are four essential pre-requisites to ensuring good governance in Jammu and Kashmir: first, a strong and stable economic infrastructure that can help to unleash the entrepreneurial potential of the people of the State as well as generate employment; second, an accountable, streamlined and people-sensitive administrative machinery; third, a speedy grievance redressal system that includes an upright and effective judiciary; and fourth, a revival of Kashmir's traditionally tolerant society and its expression in the form of Kashmiriyat. All four have been absent in the State through most of this decade. Only once these are in place can we hope for an economically viable and politically and socially stable Jammu and Kashmir.

The civil administrative machinery had all but collapsed during the militancy. Top officials concede that the civil service-especially at the lower rung-had openly flouted "norms, rules and regulations" that had existed earlier and were unwilling to be (and often incapable of being) "responsive" to the needs of the people. Even now, policies are being formulated on the basis of poor and weak analysis, unreliable statistics and virtually no feedback. Corruption was and continues to be endemic.

The State treasury is empty; and tax revenue receipts continue to be pitiably low. The Eighth Plan outlay of Rs 4,000 crore was to be funded totally by the Centre. Central assistance to the State for the decade, 1987-1997, would be over Rs.12,000 crore. The State's Own Resources (SOR) are negligible, and-to compound the problem-the State bureaucracy is bloated. Over 20 percent of the people in the Valley (about 3,50,000) are government employees, 3,00,000 are permanent employees of the State government, 25,000 are employed by public sector units of the State, and another 25,000 are employed by the government on an ad hoc basis. The annual pay out on salaries was close to Rs 1400 crore in 1996-97 against the SOR of about Rs 275 crore. In other words, the annual plan outlay of Rs 1250 crore, for 1996-97, from the Centre to Jammu and Kashmir was insufficient to foot even the salary bill for the State. Due to the paucity of funds, the State government has emerged as one of the largest borrowers from the Jammu and Kashmir Bank Ltd.

The average annual growth rate of the State's economy was only 1.83 percent in the decade of 1980-91 as against the National average of 5 percent. Per capita Net State Domestic Product (NSDP) at Rs. 4212 (1992-93) price levels makes this State the third poorest after Bihar and Orissa. There are 1,50,000 educated (Matriculation or above) unemployed young persons. In addition, there are 4,500 engineers and 750 doctors who are also not employed. The annual employment generation in the State is only between 3,000 and 4,000 jobs.

Over Rs.500 crore worth of the infrastructure was destroyed during the years of militancy: 750 school buildings, 380 bridges and several primary health centres and hospitals were burnt down in the Kashmir Valley alone. No effective grievance redressal system exists even now. The civil administration is still far removed from the people, and the judiciary is heavily politicized. The Kashmir Bar Association has been one of the strongest supporters of the militancy, and there

were few respondents we interviewed who had any faith in the district or session courts.

Good governance cannot be achieved through subsidies or temporary relief. Packages of aid can at best act as a short-term balm, and-even then-they are often viewed as "bribes" being offered by New Delhi. What is needed is a mix of imaginative policies that build on and strengthen existing and potential strengths while clearly setting priorities for the next ten years. We recommend a nine-point plan of action. This is not a panacea, but an initial course of action that we hope the State government will pursue with the support of the Centre.

A Programme for Revitalisation of the State

Strengthen Agriculture and Especially Horticulture

The economy of Jammu and Kashmir continues to be agrarian, contrary to popular belief. About 80 percent of the population derives its livelihood from agriculture, with about 74 percent of the land holdings of the size of less than one acre. It is clear that there has never been a fall in the State's agriculture production contribution even during the years of the militancy. Horticulture's performance has been even better. In 1995-96 the production was 7.16 lakh MT and in 1996-97 it was 8 lakh MT. The production is expected to touch 9 lakh MT. The size of the horticulture industry in the State is about Rs 500 crore. Export earnings, mostly from walnut, total about Rs.80 crore. The State Government has set up 14 marketing outfits, but much more could be done. We firmly believe that any plans for the economic resuscitation of Jammu and Kashmir must remain rooted in its strong agricultural base.

In many ways, fruit production in Jammu and Kashmir can be compared to the Operation Flood scheme in other parts of the country. There are 228 co-operative societies across the State with about 500,000 growers engaged in the activity. It provides direct or indirect employment to over 25 lakh people. By strengthening the co-operative societies, the output can be enhanced further. One of the crucial aspects of horticulture in Kashmir is the financing of the harvest. With the breakdown of the banking system, growers have been denied access to relatively cheap funds. In the absence of bank credit, middlemen have started financing the crops at high costs thereby pushing up the production costs. We recommend that the Jammu and Kashmir Bank, which has now re-opened many of its branches in the Valley, route loans though cooperative societies. Not only will this make loan recovery easier, but will also encourage the growth of the cooperative movement. The perishable nature of the fruit has also caused storage problems for individual farmers as well as cooperatives. Though the concept of terminal markets-fully equipped fruit collection centres with temperature regulating facilities-has been initiated, the pace is abysmally slow. We are encouraged though by the setting up of one such terminal at Sopore by the Horticulture Development Corporation at a cost of only Rs 3 crore (excluding land costs). We feel that the State Government should provide incentives to the cooperatives to set up such terminals. As in the case of sugar cooperative societies in Maharashtra, the horticulture cooperatives can also generate employment even among the landless especially for post harvest activities. Apart from routine grading activities, there is scope for generating employment in the "packaging business". According to existing government regulations on environment protection, plywood boxes are no longer allowed for packing. With the gradual shift from wooden boxes to cardboard boxes, a flourishing cottage industry could be created through cooperative societies. This industry, with its requirements for raw materials processing and finally marketing, could act as an upcountry industry employing several hundred people.

Make Power Generation a Key Priority, but Privatise Transmission and Distribution

Power is today a scarce resource in Jammu and Kashmir, and yet the State has the potential to become an exporter of power. The State is capable of generating 15,000 MW of hydro-power. Not even 400 MW is being currently generated.

Excluding a few diesel units and the Kalakote thermal unit, the entire power is produced by hydropower projects. Of this, 42.9 percent is lost in transmission and another 28 percent is discounted as theft. Only 30 percent is legitimately used. Total revenue to the State electricity board does not exceed Rs 25-40 crore a year (until recently hardly anyone was paying electricity bills), whereas it spends Rs 350 crore per annum to generate power. Commercial loss for the power department due to theft, non-payment of dues and T&D losses was Rs 293.22 crore in 1993-94. It was Rs 315.40 crore in the succeeding year. The average cost of production of power is Rs 2.09. However, customers are charged only Rs 0.33. Poor transmission facilities, cost, and time overruns of several of the ongoing projects have led to a situation where power cuts during winter range from four hours to eight hours daily. In 1971, the Uri project for 480 MW was estimated to cost 4 paisa per unit. However, the current rate is around Rs 3 per unit. The project incurred a cost overrun of Rs 1667.38 crore from the sanctioned cost of Rs. 1632.62 crore. Similarly, Dulhasti, a 390 MW hydel project, has incurred a cost escalation of Rs 2296.8 crore from its original sanctioned cost of Rs 1262.97 crore. The expected cost of a unit of power from Dulhasti is Rs 5. The project, which was to be commissioned in July 1994, is now expected to be complete by 2001. Be that as it may, Dulhasti, Uri and Bhagliar should make the State self sufficient in power.

The real challenge, however, is to harness the remaining 13,000 MW. We recommend that the State Government make this into one of its top priorities. The State Government must first clearly decide what mix of micro and mega projects will be most appropriate. Clearly, parts of the Jhelum and Chenab can accommodate mega-projects while a micro-project may be most suitable for the Sindh. The State Government must seek to invite international investment for these projects and be prepared to offer adequate security guarantees.

We also feel that the transmission, distribution and generation of power must gradually be shifted to the private sector. The State Government must move in this direction within the next five years. Central assistance towards power generation is vital, and Jammu and Kashmir has a legitimate claim to receive such assistance since the Indus Water Treaty of 1960 curtailed the State's rights on the upper Chenab, Jhelum, and Indus for purposes of even non-consumptive hydroelectric storage and diversions within these basins.

Prioritise Primary and Vocational Education

Education, even upto the post-graduate level, is free in Jammu and Kashmir. However, less than 27 percent of its population is literate. There are nearly 1,50,000 educated unemployed and yet there is a severe shortage of skilled workers: carpenters, plumbers, electricians and masons. These are some of the ironies of the State's skewed educational policy. We recommend that the State Government prioritise primary and vocational education. It may be necessary to stop providing free education beyond the 12th class and use the additional resources so generated to strengthen primary and vocational education. Jammu and Kashmir has currently about 10,500 primary schools and it is believed that not more than 50 percent have even basic facilities. This must change. We recommend that every village - with a population of more than 5,000 - should have a Model School and every Tehsil should have an Industrial Training Institute (ITI).

Energise the State's Services, but Streamline the Bureaucracy

The State Services, particularly the Kashmir Administrative Service (K.A.S.) and Kashmir Police Service (K.P.S.), are today in a parlous condition. The morale of the officers has reached a nadir, and there was, until 1997, no recruitment for thirteen years. We strongly believe that it is vital for Jammu and Kashmir to have a cadre of competent police and civil services officers and that recruitment must be regular. The poor quality of training of the officers has also played havoc with the quality of products. We recommend that 75 percent of the training of K.A.S. and K.P.S. officers should be of the kind given to I.A.S. and I.P.S.

officers. It would also be desirable if K.A.S. and K.P.S. officers be seconded to the Central government for three years after the training period. While it is essential to have regular appointments to the K.P.S. and K.A.S, it is most important to reduce overall the number of government employees. We recommend that the State Government should plan to reduce the number of government employees by 25 percent over the next ten years.

Encourage Pilgrimage Tourism and Adventure Tourism

While only about 30,000 people were directly dependent on tourism even during the peak of traffic in 1987-88, tourism can and does have a huge multiplier effect. More important, the return of tourists can be of great psychological importance, and economic and political normalcy is often equated with the presence of tourists. It might still be difficult and risky to encourage regular tourist activities in the Valley, but the State can actively pursue "Yatra" tourism. Even during the height of militancy, pilgrims visited Amarnath and the safer Vaishno Devi shrine as well as the Hemis and other gumpas in Ladakh. It is estimated that in 1995-96 about 3 to 4 million pilgrims visited the State and spent about Rs 600 crore. We recommend that the government provide incentives to the private sector to build adequate infrastructure in Ladakh, Katra and enroute to Amarnath and encourage package tours to the two places for most of the year. Clearly, adequate security arrangements would need to be put in place enroute to Amarnath. We also believe that there is an international NRI tourist market waiting to be tapped, and the conversion of Srinagar into an international airport should be pursued diligently as should the possibility of an all-weather road to Ladakh from Srinagar. We also feel that better facilities for mountaineering, river rafting, hang gliding and other adventure sports should be created in the state. We are encouraged by the holding of the first National Winter Games at Gulmarg and recommend that the Central government support the State in this endeavour.

Strengthen the State Human Rights Commission

The State Government had announced the formation of a human rights commission in 1996, but the Commission has only just begun working. It is vital that the Commission be strengthened and be as independent of the government as is possible. Such a commission will provide the 'ordinary' Kashmiri with a much-needed outlet to seek redressal of grievances.

Appoint a Legal Reforms Committee and Establish a State Law School

The State judicial system, as earlier indicated, is in disarray. There is an urgent need to restructure the judiciary, especially at the district and sessions level. We recommend that the State government - in consultation with the Chief Justice of the Supreme Court - appoint a Legal Reforms Committee. In the long term, what is needed is a new generation of competent lawyers and the State Government could consider establishing a State Law School on the lines of the National Law School in Bangalore, which offers a five-year integrated L.L.B programme.

Strengthen the Fourth Estate

The print and the electronic media have flourished during the years of the militancy, but the quality of reporting has not always been reliable. There are many factors responsible for this, including the fear of reprisals from the militants. But the absence of proper training too has contributed to the lack of professionalism. We feel that the Media Education Research Centre in the University of Kashmir should be strengthened and be equipped with state-of-the-art facilities. An internship programme, for attachment with national dailies, should also be considered.

Rehabilitate Kashmiri Pandits and Help Revive the Spirit of Kashmiriyat

Only the revival of Kashmir traditional civil society, based on the syncretic cultural ethos of Kashmiriyat, can generate social stability in the long term. It is vital, therefore, that Kashmiri Pandits be rehabilitated in the Valley. Pandits will

return, it is clear, only if they are assured of an honourable and secure life in the Valley. On the one hand, the State Government must provide adequate security assurances to all those who are willing to return and give their property back to them. On the other hand, the State Government must encourage a dialogue between Pandits and Muslims at the village and mohalla levels. A blanket ban on the sale of Pandit property has been introduced and must be continued. Specific incentives can be provided to NGOs to promote confidence-building measures between the two communities.

CHAPTER 3

Internal Security

Our policy recommendations on security are based on a somewhat wider understanding of what constitutes security and of the measures to ensure it. Regrettably, the failure of governance in many parts of India today has led to a militarisation of politics. Issues that fall in the realm of politics are far too frequently attempted to be solved through the application of military force. Every attempt must be made to ensure that this temptation is resisted by the political leadership. The aim in Kashmir must be to ensure that civil society re-establishes itself as quickly as possible.

At this stage of the insurgency in Kashmir, the proxy war by Pakistan is the main issue confronting the State. At the same time, the internal infirmities that have led to the present situation in the province must not be underestimated. The government's response must address both issues.

Now that militancy is in remission, a realistic assessment of Pakistan's strategic options is necessary. It must be remembered that, notwithstanding what the government in Islamabad might say, policy on Jammu and Kashmir is determined by the Pakistan military and the ISI. Our assessment is that Pakistan has the following possible options:

- direct involvement by the Pakistani military
- limited introduction of Taliban forces
- larger induction of international Islamic mercenaries
- escalating the intensity of internal conflict through the greater use of Improvised Explosive Devices (IEDs) and more sophisticated weapons.

Direct military intervention carries with it the grave risk of escalation to a limited conventional war across the international boundary. Both sides apparently have a realistic assessment of its dangers as well as its costs. Pakistan is unlikely to attempt it at this stage. It is also an option that India has deliberately chosen not to adopt.

Pakistan will risk international opprobrium if it were to induct the Taliban into Jammu and Kashmir in any significant numbers. The Indian security forces are in any case confident of dealing with the option through traditional counter-insurgency measures.

Pakistan's preferred strategy is therefore likely to be the continuation of the proxy war. This proxy war will be increasingly prosecuted by Islamic mercenaries and new weaponry. Diplomatically, Pakistan will aim at publicising Kashmir through the international media, the Organisation of Islamic Conference (OIC), and human rights groups. Militarily, the attempt will be to persuade international Islamic mercenaries to participate in the insurgency in greater numbers. The supply of sophisticated weapons will be increased. Explosive devices planted randomly, selective use of IEDs by well-trained experts, even targeting by suicide squads on the pattern of West Asia and Sri Lanka are possibilities for the future.

Assuming that the proxy war continues, our suggestions regarding Indian security policy are organised in eight parts: management of the line of control (LOC); command and control; force deployment; force composition; force effectiveness; intelligence; strengthening local resistance; and rehabilitation of the "friendlies" and surrendered militants.

Managing the LOC

The first and foremost task of security must be to manage the LOC so that the flow of militants in both directions is checked. The primary responsibility for strengthening border defence rests with the Army and the Border Security Force (BSF).

Obviously, the first requirement is aggressive patrolling of the LOC. During the high phase of the militancy, a four tier system of patrols and checkpoints was set up. This has proved effective and must be maintained. A physical presence at key points is vital for deterrence and defence. Interdiction, securing lines of communications, and guarding static installations remain important tasks.

A second key component of LOC management is intelligence gathering and communication to the forces in real time. There have been a number of notable successes here, with intelligence agencies coordinating and sharing information with the armed forces in time for interdiction. The shifting focus of Pakistani activities, to different sectors of the border, means that the coordination of intelligence with the forces will be an ongoing challenge.

Managing the LOC is not however a mechanical activity dependent simply on adequate forces, proper equipment, and well positioned deployments. It requires a leadership style which is dynamic and engaged and must not be retroactive but anticipatory. It should be build on past activities and be able to predict future ingress. There is also a need to harness advanced technologies for interdiction of the militants.

Command and Control

One of the banes of counterinsurgency operations in India is that the various forces tend to operate separately. They have their own priorities and function independently of each other, indeed sometimes working at cross purposes. This is a sure prescription for failure.

In any military endeavour, there must be a unity of effort, combining the activities of the different elements for the achievement of the overall goal. Unity of effort has two aspects: one is command; the other is control. While command is more a function of execution, control implies planning and optimising the use of limited resources. It is unity of control that is vital, and not command.

Command is best left to the leaders of different forces. On the other hand, control or optimising the use of resources is best achieved by a Unified Headquarters rather than a unified command. A unified command is also ill suited to India's democratic ethos which depends on a system of checks and balances in which no one individual has command over diverse and extensive forces.

A Unified Headquarters means, then, that each force must function under its respective commander in a manner best suited to its organisational methods and that, at the same time, commanders must co-ordinate their actions and respond to an overall plan. A Unified Headquarters should be an entirely professional body, with political intervention restricted to laying down broad guidelines and policy.

The Unified Headquarters in Jammu and Kashmir is working reasonably well. However, three points may be made regarding its functioning and structure. First, it requires a dedicated staff drawn from the different organisations. Second, it should meet more frequently. Third, and perhaps most importantly, it needs to be organised at four levels: the State, the sub-State, the Divisional, and the District levels.

At the State level, the Unified Headquarters should function under the Governor, with the Chief Minister and the GOC-in-C Northern command and other senior officials from the State and Centre if necessary. This will primarily be a planning body. It will be responsible for assessing the overall situation, laying down broad guidelines, allocating resources as required and formulating major security policies. The HQ should have a small staff located at Udhampur, comprising senior representatives of major forces and the civil government.

Two Unified HQs should be set-up at the sub-State level, one each at Jammu and Srinagar. These will be under the respective Corps Commanders. The composition will be similar to the State Level

HQ, but may include additional operational staff, in particular, intelligence, media, and publicity heads. The HQ should meet at least once a week.

The Divisional HQs will need to be established at the level of Army Divisions and a group of Districts. These lower level HQs can be optional and vary according to local needs and circumstances.

An HQ at the District level on similar lines is vital. This can function under a Brigade Commander or equivalent and will be a key level in overseeing the implementation of policies and in monitoring the progress of developmental projects. District HQs will need to have some financial authority. Each Member of Parliament is given Rs. 2 crores for constituency development work; even a paltry sum allocated to District HQs in Jammu and Kashmir will be money well spent. This has been the experience of the State since 1990, where amounts as low as Rs 10,000 per district have produced results. There will, of course, be resistance to the setting up of District HQs. But, if the people of Jammu and Kashmir are to be provided decent administration in the short term, this may well be the only answer.

Force Deployment

The deployment of security forces in India is organised in a counterinsurgency or CI grid, and this pattern should be maintained. A CI grid means deploying forces near towns and major villages in order to oversee the population and thereby slowly influence them, keeping sufficient forces in reserve to deal with contingencies. Concentrating forces at distant places to sally forth for operations is ineffective and counterproductive. It was the failure to adopt this posture that prevented effective CI operations from being conducted in the State until 1993. Adopting a CI grid is not easy. It takes time and costs money, but it is vital.

In the CI grid, a security force unit must be responsible for a particular area and should be centrally deployed within it. Changing a unit from one area to another, save in exceptional circumstances, must be avoided. It is only through this method that units can be held accountable for their actions. An attempt at firefighting by moving forces from one area to another on the smallest pretext is very tempting for senior commanders and must be resisted. In general, central reserves should be used for such contingencies.

Force Composition

Both in quantity and quality, force deployments must be adequate for the task at hand. In Jammu and Kashmir, this has meant that the Army has had to be deployed on a large scale for nearly a decade. Clearly, the Army will continue to play an undergirding role in counterinsurgency for many years to come, a point that is widely understood even in the forces. That said, it is desirable that the Army be retrenched as soon as possible. Selective deployment of Army units may be necessary to strengthen critical areas and to boost the capability of the security forces for mobile operations. The recent move of the Jammu and Kashmir government to reduce Army deployments in some major towns including Srinagar is intended to reduce the load on regular forces.

In order to retrench on the use of the Army, the other security forces must be available in sufficient numbers and quality. It should be noted here that in the long term, a major reassessment of the numbers, training, tactics, armed complement, and functions of the Indian paramilitary and police forces is a task that requires urgent attention. In the meantime, in particular for Kashmir, a few specific recommendations for the various paramilitaries and police are as follows.

The Rashtriya Rifles (RR) should be the main counterinsurgency force in Jammu and Kashmir, as the Assam Rifles are in the Northeast. Its organisation and composition must continue as at present and reflect a truly paramilitary character. The officers should be drawn from the regular Army and largely on a regimental basis. The regimental system is crucial for the development of a cohesive fighting force. The present practice of rotating officers and men from diverse military backgrounds in and out of RR units should be ended. It has already led to a number of instances of indiscipline, including various cases of "fragging" (violence against officers), and is

deleterious to force morale and combat effectiveness.

If the BSF, primarily a border protection force, is to continue to shoulder the responsibilities of counterinsurgency, it must create a new wing entirely for this purpose. This wing should have a younger age profile, special arms and equipment, and in organisational and training terms it should adapt itself to the requirements of a special active duty force. It, too, should adopt a regimental system. As it is presently constituted, it cannot be entrusted with high intensity use in Jammu and Kashmir.

Ultimately, the Jammu and Kashmir Police must be responsible for law and order within the Sate. The revitalisation of the Jammu and Kashmir Police must be a high priority and urgent task. A beginning has been made, but there is considerable work ahead. Three areas deserve special attention: the size and structure of the police force; training; and morale.

First of all, the police force must be enlarged and restructured to reflect the changing security environment. The Jammu and Kashmir government is intending to recruit up to 10,000 policemen initially. This is to be increased by another 25,000 within three years. The Special Task Force, an elite group within the Jammu and Kashmir Police, has been formed and is active mostly in the urban areas. However, it too must be enlarged.

Second, better training and widening the recruitment base to include Kashmiris from other parts of the State are key measures for the Jammu and Kashmir Police in general and for the Special Task Force in particular. Training represents a major challenge. Given the intensity of operations, the police get little time for systematic and regular training.

Third, the morale of the police must be improved. A number of measures are important here. As far as possible, heads of police should be chosen from within the State. A rational and consistent promotions policy must be central to any long-term revitalisation of the police. Meritorious service can be encouraged by a system of cash increments. Morale also depends on the honesty of the force. Even the newly-formed and elite Special Task Force is being accused of being corrupt. Better training and the cultivation of an esprit de corps is vital for the integrity of the police. A general campaign against corruption that begins at the top, and is not confined to the police, will have an important demonstration effect. The morale of the police can be improved by providing units with better communications systems and devices. Finally, police housing facilities must be enahanced if the morale problem is to be seriously tackled. The Jammu and Kashmir government proposes to spend about Rs. 100 crore over the next five years to expand and to increase the security of police housing facilities. This may not be sufficient.

Force Effectiveness

Counterinsurgency operations are a form of low-intensity conflict waged at relatively modest levels of violence. However, the destructiveness of this form of conflict, at the point at which the clashes occur, should not be underrated. Therefore, it is entirely logical that the military engagements should take place as efficiently as possible. Superior technology is vital in this regard.

So far the security forces, except for the Army, have functioned in a state of technological inferiority to the militants. The militants have almost always had the advantage of better weapons, more effective communications equipment, and better web equipment to hold weapons and ammunition. This situation is unacceptable and needs to be remedied speedily. The Indian Army also needs to devote much greater resources to deal with an ongoing CI situation. The demands of low-intensity counterinsurgency operations cannot be ignored. Given this reality, the following areas deserve priority:

- Acquisition of a light combat weapon
- Better crowd control weapons
- Specialised communication and transmission detection systems
- Lightweight personal protection systems

Intelligence

One of the key limitations of the counterinsurgency effort in Jammu and Kashmir was intelligence gathering and assessment. The massive subversion that was underway in the State in the mid 1970s and especially in the mid 1980s went entirely unrecognised or unanalysed. While there was piecemeal reporting by various intelligence organisations, the overall trend in Jammu and Kashmir was not sufficiently comprehended at the State or at the Centre.

The intelligence system reveals several layers of weakness. Amongst the more glaring are: the lack of coherent analysis and assessment; the reluctance to share intelligence between different organisations; and the unwillingness to transmit information to active levels. These weaknesses must be overcome. Though many of the remedial measures are applicable nationally, some immediate change is required in Jammu and Kashmir.

Strengthening Local Resistance

Ultimately security is best enforced through local efforts in villages and small localities in towns and cities. Serious effort should be made now to develop this at the grassroots level. Village Defence Committees may be set up with a small Village Defence Guard. These may be suitably armed as necessary. Training should also be imparted as required. These organisations should be capable of limited self defence and be able to call for help. Ex-soldiers and retired police personnel may be co-opted.

Finally, there is the importance of the State's commitment to security. It must be realised that security is a function not of the military or the security forces alone, but in addition of the State itself. The Administration must be aware that security is the State's primary responsibility to its citizens. At all levels, then, the political and the civil administrative authorities should be directly responsible and accountable for security.

Rehabilitating the Friendlies/Surrendered Militants

The "friendlies", led by former militants, were important components in the counterinsurgency efforts. Their intimate knowledge of local communities and relationships, of the terrain, and of the operational methods of the militants, as well as their ability to meld into the local populace made them indispensable in the fight against the militancy.

Now that the militancy has been brought under control in substantial measure, the utility of the friendlies is limited. Some still function as informers and "spotters"; few are any longer needed for policing and fighting. They must, along with the surrendered militants, be re-integrated into the normal life of the State. In the absence of incentives to lay aside their arms permanently and without long-term gainful employment, they could be tempted to return to the militancy.

As things stand, the friendlies are being encouraged to lay down their arms. They are being housed in specially-protected havens by the government. In addition, they are being paid a stipend (Rs. 2000 per month) until they find employment. For the longer term, the government is looking for ways to employ these young and able-bodies men in the police and paramilitary forces. A number of them can be made Special Police Officers (SPOs). Others can be absorbed into the Forest Protection Force. Yet others can help man the Village Defence Committees. At least two other measures are necessary: skill enhancement (e.g. vocational training); and self-employment loans (to open small businesses and trades).

Foreign Policy

As India thinks about peace and stability in Jammu and Kashmir, it must consider how its present approach to relations with Pakistan and to the world at large contributes to its Kashmir policy. In the turbulent and uncertain period from 1989 onwards, which coincided with the militancy in Jammu and Kashmir, India managed its foreign relations with some success. However, we argue that India can do better.

With respect to the problem of Jammu and Kashmir, India's foreign policy must encompass the following: Pakistan policy; and relations with the U.S., China, and the Muslim countries. At the core of India's Pakistan policy must be a two part approach: discussions on a long term settlement of the Kashmir dispute; and a programme of cooperation with Islamabad and the people of Pakistan. In addition, as part of a diplomacy of negotiations and cooperation, India must revisit aspects of its relations with the key external powers, particularly the U.S., China, and selected Muslim countries, all of whom can exert a suasive influence over Pakistan's leadership.

The Costs of Conflict

The costs of the lingering conflict with Pakistan are much greater than is usually acknowledged. The direct costs of combating insurgency and terrorism in Punjab and Jammu and Kashmir have been considerable. The opportunity costs have probably been many times the actual cost of security operations. These include the loss of energy access to Central Asia, of markets in the entire Economic Cooperation Organization (ECO), of potential pipelines and transit routes, and of tourist traffic. Since social sector spending must be increased dramatically in the coming years in order to preserve the political viability of the economic reforms, we must expect that continued conflict will affect the political and economic prospects of India. If so, a settlement with Pakistan over Jammu and Kashmir is crucial.

At the core of India's policy towards Pakistan must be a multifaceted programme of cooperation. In the long term, a fundamental resolution of Kashmir is of course necessary. A number of schemes have been advanced for a permanent settlement of the dispute. These include conversion of the Line of Control into an international boundary, joint control of the State, the so-called Trieste solution, and the holding of a plebiscite on the future of the State. However, the time is not ripe for negotiations that would centre on such far-reaching options. A more feasible goal is postponement.

By postponement we do not mean a freeze on bilateral discussions of Kashmir. Rather, we mean a process analogous to that which India and China embarked upon in 1981. In effect, India and China have adopted a strategy of postponement. While border negotiations, confidence building, and a broader programme of diplomatic and economic normalisation have gone forward, a final settlement of the territorial issue between India and China has been left to the future.

We therefore propose that India adopt a two fold strategy towards Pakistan: a programme of cooperation plus ongoing talks on Kashmir. This strategy is implicit in the renewed India-Pakistan Foreign Secretaries' talks, and we support initiatives to resume this dialogue, indeed to enlarge it. We

urge that India adopt a programme of cooperation in four areas - military, political, economic, and social.

Military Cooperation

A programme of military cooperation with Pakistan should comprise three parts: a no war pact and confidence building; defensive defence; and a nuclear safety, assistance, and cooperation zone (NSACZ).

A No-War Pact and Confidence-Building Measures

To improve the climate between India and Pakistan, a no-war pact would be a helpful measure. From India's point of view, a pledge to abjure force should be welcome provided it is seen as a supplement to a larger programme of the kind outlined in the rest of this report.

The Pakistani offer of a no-war pact, as the basis for peace and stability between the two countries, should not be unacceptable to India. Although New Delhi did not respond to the most recent offer, the idea of a no-war pact, going back to the 1950s, is originally India's. More importantly, while India has so far not accepted the idea, it has shown great restraint in dealing with Pakistan: it has observed the spirit of a no-war pact even if it has not signed a formal document. This restraint is crucial if there is to be a solution to the Jammu and Kashmir dispute.

An India-Pakistan no-war pact should go beyond a declaration prohibiting the use of force between the two countries. It should be backed by a series of confidence-building measures designed to increase the probability that force will not be used. These measures will serve as a reassurance to both sides. Since 1990, a number of confidence-building measures (CBMs) have been negotiated relating to various military practices. These include agreements on a hotline between the Directors-General of Military Operations (DGMOs), the notification of troop movements, and overflights and the violation of airspace. India should propose to go further. An expanded set of CBMs might include greater contacts, both social and professional, between the military establishments, and further transparency and limits with respect to military exercises and troop movements. India could also propose disengagement zones in select areas. Troops, artillery, and armour could be pulled back to ensure that peace and tranquillity is maintained along unstable parts of the border.

Defensive Defence

As a strategy of reassurance, India should also propose that the two countries begin talks on conventional forces. While CBMs promise greater transparency and communication between opposing forces (so as to reduce the danger of surprise attack), an arms control regime relating to conventional forces is vital as part of a more thoroughgoing programme of reassurance.

India should propose that the two countries discuss force strength and structure. In January 1998, the Indian Army announced that it will reduce conventional forces by 50,000 men. While this is primarily intended to effect internal economies, it is a sign that the two armed forces can prune numbers. We suggest that it is possible also to make changes in force structure commensurate with a posture of defensive defence. The two countries could, by mutual definition and agreement, structure their forces so that they are able to defend against an external attack but are unable to carry out a disabling strike. Essentially, a defensive defence posture as proposed here requires that the two forces adopt a non-threatening mix of offensive and defensive systems. We recognise that no military equipment is intrinsically offensive or defensive. However, through a process of dialogue, it is possible for the two sides to delimit which systems are the most destabilising and to carry out reductions accordingly. If the dialogue is successful and leads to real changes in force structures, it should in time be extended to future acquisitions so that a carefully crafted offensive-defensive military balance is not disturbed by the shadow of future investments. A defensive defence also requires changes in military doctrine. Included in the dialogue and in the exchanges between military establishments should be discussions on matching doctrinal adjustments.

A Nuclear Safety, Assistance, and Collaboration Zone (NSACZ)

India and Pakistan can cooperate on nuclear matters. They have done so in the past. In 1990, they signed an agreement not to attack each other's nuclear facilities. This involved listing their various installations - a signal and important act of transparency. In spite of the many, and often severe, ups and downs in the bilateral relationship since 1990, the lists have been exchanged punctually every year in accordance with the original agreement. We believe that the two countries can and should go further in nuclear matters.

First of all, South Asia can be made *a nuclear safe zone* - or at least safer zone. This would involve three declarations: no first use, no use against non-nuclear powers and no use against population centres.

To begin with, India and Pakistan would pledge never to use nuclear weapons first. Such a declaration would reinforce the Indian and Pakistani contention that if they ever went nuclear outright it would be for the purpose of deterrence and not blackmail. In suggesting this, we recognise that there is an element of asymmetry in the proposal. Pakistanis have argued that a no-first-use agreement would favour India. Given India's conventional weapons superiority, a promise not to use nuclear weapons first would, they argue, consign Pakistan to permanent military inferiority and danger. However, if the no-first-use proposal is made in the context of defensive defence, as suggested earlier, then Pakistan could well be persuaded to go along. We should add that the idea of no-first use has long been the policy of the People's Republic of China. During the Cold War, it was endorsed by the Soviet Union and the Warsaw Pact. There are also influential voices in the United States who back the idea of a no-first use policy as the beginning of a restructured nuclear posture. In sum, there is an international climate which is supportive of a global no-first use convention.

The second part of a nuclear safety regime would be a no use pledge, a determination not to use nuclear weapons against non-nuclear powers. We believe that this is not particularly controversial. A no use pledge by both countries should be a reassurance to their immediate neighbours, to near neighbours, and to the international community as a whole.

The third declaration that India and Pakistan should jointly make is that they will not use nuclear weapons against each other's population centres. In the event that both sides ever go nuclear, they will be prohibited from targeting human settlements even as part of a retaliatory posture. In three wars (1948, 1965, and 1971), India and Pakistan have observed a high degree of restraint. Their ground and air forces have deliberately avoided the kind of massive bombing resorted to in the Second World War, Vietnam, Afghanistan, or Iraq. South Asians have never been in the theatre of total war (even in the Second World War, where they escaped the ravages of total war by a hair's breadth), and their strategic thought has never contemplated the bombing of population centres. Both countries should attempt to build on this strategic innocence and extend the principle of restraint to nuclear conflict.

The utility of these verbal gestures may be questionable. A natural enough question is: Would either side respect the terms of the declarations in a crisis?

Our view is that while this objection is reasonable it misses the point. The declarations are part of a much larger and integrated programme of reassurance. If adopted, they would signal the desire of both countries to continue to exercise restraint and to do so even if the nuclear pathway of the Subcontinent took a different turn, one that bent towards overt weaponisation. They are an investment for a future that may be more hazardous and complex. They are not a guarantee that nuclear weapons will never be used or tested. Ultimately, any declaration -- as any other foreign policy act -- is revocable. The declarations should be seen therefore for what they are, namely, elements of a larger exercise in standard setting between India and Pakistan. They are standards that make strategic sense. Some of them make strategic sense in and of themselves; others make sense to the extent that they are embedded in a

larger framework of reassurance. Standards that make strategic sense and that are made freely and with due consideration, we suggest, should be effective and durable.

The second part of the NSACZ for South Asia is a *nuclear assistance regime*. This would encompass at least three components: a crisis management centre, a hotline dedicated to communication on nuclear matters, and nuclear scientific exchanges. India should propose that each side establish a crisis management centre. The two centres would consist of civilian officials and military personnel who would deal with incidents and accidents that threaten to escalate to crisis levels. Their functions would be to improve decision making in high stress situations in their respective governments and to maintain contact with their counterparts across the border. The second component of an assistance regime would be a "dedicated" hotline between the two nuclear establishments. A reactor accident or an accident involving nuclear materials on either side of the border could have implications for the other country. Communications between nuclear scientists and engineers, perhaps even medical authorities, might be necessary in such a situation. In such a circumstance, a dedicated hotline between experts would be a vital asset. The third component of an assistance regime would be regular visits and exchanges between the nuclear scientists of the two countries. In essence, this would be a confidence building measure serving to promote the spread of information and enhance personal contacts and familiarity. The growth in this scientific "social capital" could be vital in the management of nuclear crises and, for the longer term, in fostering cooperation in nuclear energy and research.

The third and final part of a South Asian NSACZ is a *nuclear collaboration regime*. India and Pakistan could work together on nuclear energy. A collaborative nuclear energy regime would ideally include joint investment, ownership and manning of nuclear reactors specifically designed and located to meet the region's energy needs. Such a collaborative regime would draw on India's and Pakistan's comparative technical strengths and could well win support within sections of the international non-proliferation community.

Political Cooperation

In addition to a programme of military cooperation, India should initiate a programme of political cooperation. We recommend that India move ahead to solve three territorial quarrels — Siachen, Wullar, and Sir Creek. That the two countries came close to setting all three issues in 1992-93 suggests that it is not beyond them to find rational solutions to these bilateral quarrels.

Siachen is the place to start. The strategic value of the glacier is doubtful. In addition, the human and economic costs of maintaining troops on the highest battleground in the world have been enormous. Fortunately, there is a way out, for both countries. The Karachi Military Agreement of 1949 delineated a cease-fire line which was drawn on large-scale maps with grid references up to four decimal points. It was signed by the Indian and Pakistani military commands as well as by representatives of the U.N. Military Observer Groups (UNMOGIP). This demarcated the cease-fire line up to NJ 9842, a little south of the Siachen snout, and extending "thence north to the glaciers". Due north has only one meaning, and implementing an agreement according to the 1949 line should represent no insuperable difficulty. Mutually negotiated troop disengagements from the cease-fire line, the thinning of forces on the glacier, and a regime of CBMs intended to ensure that neither side surreptitiously returns to advanced positions should follow an agreement. Any regime of CBMs for Siachen must include instruments of monitoring and verification in order to ensure that the agreement on force deployments, numbers, and movements is respected. This might include the use of unmanned ground sensor at vital sites, joint patrolling, and reconnaissance overflights.

Economic Cooperation

At the heart of a strategy of cooperation and engagement with Pakistan must be economics. Trade and energy are the key areas. India has

traditionally stressed the importance of economic cooperation in the process of normalisation and reconciliation. By contrast, Pakistan's view has been cautious, even negative. We nevertheless emphasize that no process of cooperation and engagement with Pakistan can be complete without an economic component. We note in this context that, despite tensions over Jammu and Kashmir and other bilateral differences since 1989, the interest amongst Pakistanis in more normal economic interactions with India has increased. This is a base on which India can build.

As things stand, India-Pakistan trade is minuscule, representing only 2% of the total imports and exports of the two countries. If illegal and third party trade is included, the two countries exchange goods worth Rs. 6000 crores. The private sectors on both sides of the border are aware that the volume of bilateral trade could be much larger in the wake of their respective economic reforms and the opening up of their economies. In the last five years, Indian business has seen trade with Bangladesh and Sri Lanka increase quite significantly. Bangladesh is now India's ninth largest trading partner. India's trade with Sri Lanka will soon surpass Japan's. Over the past four years, influential sections of Pakistani businessmen have been arguing for a more liberal trade regime with India. Membership in the World Trade Organization (WTO), the signing of the SAARC Preferential Tariff Agreement (SAPTA), the agreement in principle to move towards a free trade agreement in South Asia (SAFTA), the pressures for sub-regional cooperation within SAARC, and the absence of South Asians from the major regional trading blocs, all these are putting pressures on both governments to move ahead on normalising trade.

The Pakistani attitude to trade normalisation is ambivalent. However, in the long term, the advantages of trade with India will exert themselves. In preparation for the long term, India should continue with its support of SAPTA and SAFTA. It should also continue to offer concessions to Pakistani exports even if these gestures are not reciprocated. India should in addition reaffirm that it is supportive of a trade regime which is differentiated enough to protect the weaker economies from structural asymmetries. To promote business ties, Pakistani business executives should be encouraged to visit India and meet industry associations and business counterparts. Visa requirements for visiting business representatives should as far as possible be eased.

The second area of economic cooperation is energy. India and Pakistan are energy hungry countries, and their demand for energy in the years to come is projected to increase dramatically. In 1996, India spent $8.7 billion on fuel imports which represents 25% of its merchandise imports. Pakistan spent $2.4 billion and 20% of its merchandise imports. No major economy in the world spent as high a proportion as India and Pakistan. A number of schemes that would require the cooperation of the two countries have been proposed, whether it is an oil pipeline from the Gulf or Central Asia or even Iran. These have run aground of doubts from one side or the other.

For its part, India should revisit these proposals. India's primary objection to the idea of a pipeline via Pakistan is that it would become hostage to its neighbour. This conclusion is ill founded. To be commercially viable, most pipelines will need to feed the larger Indian market. Pakistan therefore has an interest in a bilateral arrangement. South Asia has a record of cooperation here which both sides should not forget. In spite of two wars, several crises, and flashpoints such as Jammu and Kashmir, the Indus Rivers Treaty (1960) has not been violated in any serious way and the two countries have shared a key energy and agricultural resource without interruption for nearly 40 years.

Social Cooperation

India must use the track-two process to develop a peace constituency in both countries. There has been some cynicism in India about track two methods. But they have their uses. India's use of the track-two method must be subtle. For instance, the advantages of the instrument would be defeated by extending overt patronage to the efforts. At the same time, India must find ways of showing that track-two deliberations are valued

and can carry weight with incumbent policy markers. Track-two invitees need to be treated better. The use of highly restrictive visas for them should be stopped. Furthermore, track two should not only be accommodated but actively encouraged. Indians, not Americans or Europeans, should pay for track two. Finally, track two should not remain limited to small groups of retired personnel and academics. A broadened base of contacts is vital. Regular contacts between professional bodies, business and industry as well as travel and trade associations, academics and Parliamentarians need to be dramatically augmented. A substantial number of Jammu and Kashmir participants, at least on the Indian side, must also be ensured.

Track two operates at another level which must be encouraged. Regular information exchanges through greater media coverage of each other should bring the two peoples closer. The greatest potential for a meaningful dialogue between India and Pakistan lies in the cultural overlaps and social and economic aspirations which are broadly similar. Access to each other's media and publishing will dramatise these overlaps and the similarity of aspirations. The more Indians and Pakistanis rediscover each other as peoples, the less likely are their governments to find cause for hostility. This is one area where a healthy dose of unilateralism is required. New Delhi should open its borders to Pakistani publications without hindrance. Eventually, Pakistan will reciprocate, if not in equal measure.

Track two should be encouraged at a third level. India once again can lead by taking unilateral measures. Religious pilgrimage, family visits, and tourism should be made easier. India has recently made changes to facilitate the travel of ordinary Pakistanis. These changes should be extended.

Cooperating With Third Parties

Third parties could help improve the atmosphere between India and Pakistan. Although India has refused to accept third party mediation, working consciously with appropriate countries to create an atmosphere congenial for meaningful India-Pakistan talks would not be inconsistent with New Delhi's pronouncements on Jammu and Kashmir and its general approach to international affairs.

India should use the opportunities that have opened up in its relations with key non-regional powers, especially the United States and China. U.S. and Chinese attachment to Pakistan obviously cannot disappear entirely. There is a history of institutional contacts with Pakistan. Pakistan is also an outlet for U.S. and Chinese arms. Nevertheless, with the end of the Cold War, there are openings that could be turned to advantage. In saying this, we stress that the isolation of Pakistan cannot be the intent of a new approach to the U.S. and China.

The United States

A real overhaul of India's relations with the U.S. is unlikely without some reconciliation on the following: India's nuclear policy; human rights; and economic reforms.

Security is the paramount reason for India's nuclear option. India's nuclear ambition has to be thought of also in terms of its desire to be seen as a leader amongst nations. A privileged club of nuclear powers is unacceptable in principle to India. Having said that, new nuclear thinking is necessary.

A dialogue with the U.S. on nuclear issues has been reopened and is potentially a way out of an increasingly stultified policy. The dialogue has been publicly affirmed by both countries. India should stay with the process. New Delhi has indicated its interest in nuclear cooperation with various countries including the U.S. Reactor sales, repair and maintenance of existing reactors, and the purchase of safety components are areas to be explored for the future.

U.S. legislation stands in the way of an early resumption of Indo-U.S. nuclear cooperation, but changes in the legal regime are not impossible. Changes in Indian policy surely are also open to discussion. India must consider the possibility of instituting safeguards on its power reactors as a way of facilitating the resumption of nuclear cooperation with the U.S., Russia, France, and even Canada.

Export controls is another area for dialogue as

part of a larger strategic engagement with the U.S. India has been conservative in exporting nuclear related components. Whether it could, and needs, to go further in tightening its export control regulations should be part of the India-U.S. agenda. In return, India should ask for a review by the U.S. of its nuclear export control laws. Controls on dual use technologies is an area where the two could find common ground. India-U.S. cooperation in conventional weaponry, as envisaged in the Kickleighter proposal, should be a priority area.

On human rights, the gap in perceptions between the U.S. and India has diminished substantially. The steady growth of human rights institutions in India and the role of the courts in demanding accountability from governments should help in protecting civil society. In addition, across-the-board upgrading of the law enforcement machinery and improving its functioning should be an Indian priority. India has to strive for the highest human rights standard without succumbing to the temptation of short-cut legislation, even in special and sensitive areas. The monumental misuse of TADA and its somewhat doubtful efficacy should be a remainder that it is not the law but the machinery which implements the law that calls for attention.

India can go beyond strengthening its human rights regime and enforcement machinery. It can increase transparency in Jammu and Kashmir. The foreign media already has access to the State. India has occasionally allowed foreign ambassadors and diplomats to visit Jammu and Kashmir as well. New Delhi could institutionalise this system by taking the initiative to organise trips at key moments. For instance, during elections, the media and diplomats could be encouraged to observe the electoral campaigns.

India has moved forward in many areas of economic reform not because politicians desired or supported it but despite them. Essentially, India had opened up to the private sector those areas of economic activity where the State was unable to occupy new space. If strategy not dogma informs decisions, as in China, the government can negotiate the best deals going with foreign firms and acquire formidable clout in the constituencies of Western decision markers. This, as Beijing has understood, is the answer to foreign policy pressures against it. India, too, must "do a China" on the U.S. and its major Western economic partners.

China

Since the late 1980s, India has reached out to China. The border talks and confidence building measures have gone ahead in spite of periodic ups and downs. A series of visits and meetings at the highest levels have also helped the detente process. The combination of border talks, CBMs, and high-level visits should continue to regulate India-China relations.

Beyond this, the opening to China must incorporate an economic component. Trade is finally proceeding along three tracks. As part of the CBM process, additional border trading posts were opened in the 1980s. After the Rajiv Gandhi visit to China, state-to-state trade was increased.

Most recently, regular trade and commerce has begun. While trade between the two countries remains small - only 0.4% of China's total and 2.3% of India's - it has grown nine-fold since 1990, for a total volume of $1.8 billion. In one year alone, from 1995 to 1996, India's exports to China rose 80%. A further increase in trade will not be easy because India and China specialise in a similar basket of products, but there are opportunities for greater economic interaction.

As mutual confidence and exchange grow, India will have to sensitise China to its concerns, including those relating to Pakistan. China's ability and agility in grasping pragmatic solutions ("one country, two systems") should help India. This pragmatism has been evident even on the question of Jammu and Kashmir. Beijing has repeatedly stated that the future of Jammu and Kashmir is a matter to be settled between India and Pakistan, a formulation that is consonant with India's view. At a crucial moment, China could be persuaded to play a helpful role in India-Pakistan relations.

The Muslim World

Central Asia has several countries that can promote

a congenial atmosphere between India and Pakistan. These countries could use a forum such as the Economic Cooperation Organization (ECO), which includes Pakistan, as well as their trade relations with Islamabad, to engage Pakistan on the issue. Others, like Iran and Saudi Arabia, will be of great help by not actively and publicly subscribing to Pakistan's point of view on Jammu and Kashmir. Iran, in particular, has offered to be more constructive. New Delhi should explore with Teheran how, without becoming an interventionary party, Iran could promote cooperation between India and Pakistan.

CHAPTER 5

Conclusion

The recommendations of this report may, in aggregate, seem too large a programme. In addition, we recognise that many of the concerns voiced by Kashmiris have been raised in other States. In particular, discomfort over Centre-State relations is fairly widespread and not exclusive to Jammu and Kashmir. We believe that only a comprehensive plan of action like the one we have outlined will create the conditions for long-term peace and stability in Jammu and Kashmir. For too long the problems of the State have been dealt with in an ad hoc manner; the results are there for all to see.

The Jammu and Kashmir government constituted two autonomy committees in November 1996. The first, headed by Mr Balraj Puri, was mandated to make recommendations with regard to regional autonomy "consistent with the integrity of the State and to promote better involvement and participation of people in different regions for balanced political, economic, educational, social and cultural development." It will also examine what changes, if any, are required in the State constitution.

The second committee, originally headed by Dr Karan Singh (former Sadar-I-Riyasat) until his resignation in August 1997, was asked "to examine and recommend measures for the restoration of autonomy... consistent with the Instrument of Accession, the Constitution Application Order, 1950, and the Delhi Agreement". It was further asked "to recommend safeguards for incorporation in the Union/State Constitution to ensure that the constitutional arrangement finally evolved... is inviolable". The committee is also required to recommend measures "to ensure a harmonious relationship for the future between the State and the Union".

Our report, we hope, is a concise but systematic document which will inform the working of these two committees as well as Central and State policy in the months to come.

Summary of Seminar Proceedings India International Centre May 1998

CHAPTER 6

Centre-State Relations and Governance

Five themes emerged in the discussion on the issues of Centre-state relations, decentralization, relations between the three provinces: Jammu, Kashmir and Ladakh, and the issue of governance.

First, the need for the Centre to "handle" Jammu and Kashmir with greater sensitivity than it has done so in the past. This was a view expressed quite frequently during the discussions and was voiced with eloquence by a former Chief Secretary of the State:

> "... an Indian living in the heartland is a compulsive Indian but an Indian living in the periphery, whether it is in Kashmir, or the North East, is a voluntary Indian. This makes a whole difference and I think he should be respected and dealt with with greater sensitivity. Moreover, Kashmir needs to be handled with greater sensitivity because it is not a tribal area, it is not like the insurgency affected areas of the North East. Kashmiris are very sophisticated, very articulate people, they draw differences between nuances, they read nuances and they react to nuances. Therefore, we have to be sensitive to what signals we send out, for Kashmiri society is a very evolved, sophisticated society."

Second, the importance of decentralization. A healthier balance of power, between the Centre and State, it was reiterated by many of the participants, was vital to ensure long-term stability in the State. Some, however, argued that "autonomy" had become a loaded term, and the term "decentralization" or "healthier federal relations" should be used. Be that as it may, at least one participant felt strongly about the need to restore autonomy to the State:

> "I think .. autonomy .. is absolutely central. I believe it lies at the heart of the problems because it is the sense of deprivation and discontent in Jammu and Kashmir that has given an entry point for militancy and cross border intervention, and that has been the history earlier from the 1950s onwards."

Third, the importance of understanding and appreciating the differences within the State with a view to ensure, first, that both Jammu and Ladakh, and the subdivisions within them, receive adequate attention and, second, that there is decentralization of political and economic power to the provinces and beyond. Many participants argued that Srinagar's grievances against New Delhi are as strong, in many ways, as Jammu and Ladakh's vis-a-vis Srinagar, and this is often accentuated by the lack of differentiation made by outside observers. As one former editor of a national daily put it:

> "... historically Jammu and Kashmir is a conglomerate state consisting of more than just Jammu and Kashmir; it includes Ladakh which comprises Leh and Kargil; in Jammu there is Poonch, there is the Dogra part of it and there is the Pakistan part of it which is not POK. Thus, there are inter provincial and intra provincial differences as well. So any structure of Centre-State relationship has to be balanced with an internal distribution of power... It is interesting that the Kashmir struggle in the

1930s started as a struggle against Dogra rule: it was Kashmir versus Jammu... in 1947 there was a transfer of power from Jammu to Srinagar, Jammu resented it because they felt they had been left out. There are genuine grievances in Jammu and Ladakh on the issues of jobs, districts delimitation, the proportion of seats in the legislature and so on. Within these areas also different communities feel that a balance needs to be struck... because of certain factors Ladakhis have been declared tribals... curiously a tribal is no longer a person who is a tribal per se, but any resident Ladakhi is a tribal by virtue of living in that region. Now the paharis want tribal status, the gujjars want the same – obviously because of jobs and employment."

Fourth, the dangers of making Kashmiris feel special, and the consequences for the Indian union. There was some feeling, expressed strongly by at least a few, that the problems in Kashmir today are a result of the "special status" that was bestowed on the State, and that any further strengthening of this feeling would aggravate problems, not just for Jammu and Kashmir, but for other parts of India as well. Fifth, strong concern was expressed at the continued indoctrination of young Kashmiris by the forces of Islamic fundamentalism, and the importance of reviving the syncretic tradition of Kashmiriyat was stressed. Almost everyone agreed that the return of Kashmiri Pandits was essential if this had to happen. Finally, almost everyone also agreed that improving the administrative functioning, weeding out corruption, and prioritizing tourism and power were of great importance in ensuring a politically healthy and economically stable Jammu and Kashmir.

Internal Security

It was generally accepted that infiltration along the Line of Control (LOC) could not be eliminated altogether. However, its flow could be reduced through better co-ordination among security agencies, use of innovative tactics, and greater resort to technology in detecting movements along the LOC.

There was recognition that a unified headquarters, as recommended by the Report, and a unified command were quite different things. A unified headquarters implied that each force conducted operations entirely under its own commanders. Coordination was achieved through regular and detailed meetings between the forces under the rubric of the unified headquarters. These arrangements were working very satisfactorily. A unified command was not feasible or desirable.

The role of the Rashtriya Rifles was controversial. On balance, though, the force was effective. It was a true paramilitary organisation, with regular soldiers operating under Army officers. In general, Central forces still had a major role to play in J&K, even though local police forces were proving increasingly effective. In the end, security in the State had to be provided by the local police, supported as necessary by Central paramilitary forces. There was no prospect, however, of reducing the regular military at present. Their numbers, in any case, were not as large as some wildly exaggerated reports in the foreign media had suggested.

Counterinsurgency had, admittedly, affected the Army in various ways. In addition to the usual stresses of counterinsurgency, there was a feeling that, despite military successes, the government had failed to build politically on the opportunity afforded by the fatigue of the militancy. But the pressures on the Army had eased. Furthermore, despite the introduction of more lethal weapons by the militants, the overall military situation had not appreciably worsened. The Army was capable of dealing with the present level of fighting.

The actual deployment of the military had to be at the discretion of the force commanders. Clear sector allocations of responsibility between the paramilitaries and the Army was necessary and was being periodically reviewed. As a result of some of these reviews, the Army had already been pulled out from major population centres.

While military operations were by and large satisfactory, the same could not be said of intelligence operations. The quality and quantity of intelligence in J&K had improved, but further

improvements were undoubtedly necessary. The major weaknesses included: coordination among different agencies; lack of adequate resources among the military formations; and over-dependence on human intelligence (HUMINT).

The former "friendlies" (surrendered and cooperating militants) had played a major role in ending insurgency. They were now victims of competitive politics in the State. They were being hounded by the local police and targeted by the Jamaat leaders, with the State administration sitting idly by. This needed to be changed.

The effect of the Indian nuclear tests in May 1998 and of the widely expected Pakistani tests remained uncertain. Clearly, however, even if nuclear weapons brought about military stability at the nuclear and conventional forces level, instability might continue at the counterinsurgency level. Nuclear weapons could not prevent low intensity conflict or proxy war - a hammer could not be used to swat a fly! In addition, in the near to medium term, nuclearisation could be expected to heighten tensions between India and Pakistan.

Foreign Policy

Two basic question had to be considered. First: should India stress the internal aspects of the J&K problem, viz. Centre-State relations and various governance problems or should it focus rather more on the external dimension of the instabilities? Second: what would be the effects of the nuclear tests on the foreign policy choices facing New Delhi and in particular in the conduct of its diplomacy vis-a-vis Pakistan? Had everything changed with the nuclearisation of the region?

One rather strong view was that the government should focus on an internal settlement of the Kashmir problem. Pakistan was intractable, and no programme of reassurance and engagement with Islamabad would work, going by the experience of the past fifty years. If New Delhi was able to squash the militancy and restore normalcy in the State as well as bring political stability and economic growth to the troubled province, then Pakistan would, as it did after 1965, stop interfering in J&K. The contrary view was that external interference was the basic cause of the problem. Other States of the Union suffered from many of the Center-State and governance related grievances afflicting J&K, but this had not led to separatist violence. J&K's concerns could be dealt with, but Pakistan had launched a systematic proxy war against India and until it was dissuaded from doing so there was little prospect of stability and peace. Dissuasion could be achieved by military success against the insurgents; but it also depended on a carefully constructed diplomatic campaign.

With respect to the nuclear tests and the potential nuclearisation of the region after May 1998, there were two basic possibilities. One possibility, clearly, was that the bomb had changed little if anything. After all, both countries had been well known to possess nuclear capability before May 1998. While the Pakistani and international reaction to the Indian tests was expectedly negative, this would abate in due course. In any case, the military situation would not be greatly altered. If Pakistan tested in the coming weeks, as was expected, this might achieve deterrence between the two countries at the nuclear and conventional level. That is, nuclear weapons might deter other nuclear weapons and also a regular conventional military confrontation; but these weapons would scarcely affect the proxy war. India's Kashmir problem would remain. Therefore, once the dust settled, and looking to the long term measured in terms of a decade or more, Indian foreign policy would have to turn to the kind of programme outlined in the Report — engagement with Pakistan, engagement also with the U.S. (including on nuclear issues), and an attempt to limit the activism of the Muslim countries on the issue of Kashmir.

The contrary view was that the nuclear tests in both countries would change everything in the region and that therefore Indian foreign policy would have to be altered fairly drastically. Here also there were two possibilities. First, the change might be for the better. Nuclear weapons might bring about mutual deterrence, stability, and peace. With nuclear deterrence in place, the two countries might much more confidently talk to each other — on confidence building, on Kashmir

and other disputes, on trade and other aspects of normalisation. In that case, the Report might be somewhat too timid in its approach to Pakistan. More, rather than less, engagement might be called for, and a permanent settlement of the J&K problem might be made possible. Second, by contrast, nuclearisation might bring about changes for the worse in the sense that relations with Pakistan, China, the U.S. and the international community might appreciably worsen and for quite some time. Pakistan might increase its support to the militancy under the protection of its now overt deterrent. China might increase its hostility to India, even restart its support to the militancies in the Northeast. It might also deepen its relations with Pakistan (especially on nuclear and missile cooperation), retreat from its more balanced position on Kashmir, and turn its back on the normalisation with India. The U.S. might heighten its crusade against proliferation and make India and Pakistan even greater targets. Sanctions in any case seemed probable. In that case, the Report's recommendations might be too optimistic regarding what might be achieved with all three countries. A fundamental rethinking of Indian policies might therefore be necessary. Clearly, it was too early to tell which way things would play out. However, Indian decision-makers would have to be alert to the challenges and opportunities posed by the post-Pokhran II situation.

Beyond these two fundamental questions, there was a third kind of problem before Indian policy makers, namely, what was the basic posture and style to adopt in relation to Pakistan? Three options seemed to exist. The first option was, in the long term, to choose a strategy of reassurance and engagement as proposed by the Report. A more ambitious version of this option was to begin with reassurance and engagement as a prelude to proposing negotiations on a permanent settlement of the Kashmir dispute. A permanent settlement should be based on making the Line of Control, with some adjustments, an international border. Once this was achieved, the two countries could sign an agreement to put in place a soft border which would allow Kashmiris on both sides freer movement.

A second option was to be more aggressive and to deal with Pakistan from a position of strength. The militancy had to be brought firmly under control and J&K completely denied to Pakistan. It was not possible to reassure and engage Pakistan given its fundamental antagonism to India and its prickliness and suspiciousness regarding anything India proffered. Why bother therefore, and why in any case sleep with the enemy? India should be militarily strong and cautious and in addition should maintain its claim to the whole of Kashmir. Indeed, it should publicise Pakistani neglect and maltreatment of Pakistani-occupied Kashmir and the Northern Areas.

A third option vis-a-vis Pakistan was to suggest that the Kashmir dispute be put on the backburner. A strategy of postponement would entail doing whatever it was possible to do with Pakistan in other spheres. It would be a self-consciously conservative, modest strategy which would recognise that if Pakistan agreed to put Kashmir on the backburner it might be difficult for it to go any further with India. Its domestic politics might not allow for anything more extensive with India. This approach was feasible only if Pakistan was convinced that it could not get Kashmir through a proxy war and that the costs to it of pursuing such a strategy were too great. Such a time may have been reached. However, if Islamabad was to concede postponment, then it would be unlikely to pursue anything more ambitious with India on other issues.

It went without saying that whatever the basic posture and style with respect to Pakistan, India could not countenance any form of third party involvement in the Kashmir dispute.

List of Respondents

Srinagar*

2 July 1997

Dr. Farooq Abdullah, Chief Minister, Jammu and Kashmir.

Mr. Parvez Dewan, I.A.S., Principal Secretary to the Governor.

Dr. S.N. Dhar, former Professor, S.M.H.S. Hospital, Srinagar.

Mr. Jalaluddin Khan, Gujar activist.

Mr. Abdul Gani Lone, Leader, All Kashmir Hurriyat Conference.

Mr. M.L. Kaul, I.A.S., Additional Chief Secretary, Jammu and Kashmir.

Mr. R.K. Mattoo, Former Principal Chief Conservator of Forests.

Mr. Surinder Singh Oberoi, Correspondent, Agence France-Press.

Mr. P.N. Razdan, Advisor Planning, Jammu and Kashmir.

Faculty and students of the Media Education Research Centre, University of Kashmir.

3 July 1997

Dr Girja Dhar, Chairman, Jammu and Kashmir State Public Service Commission.

Mr Ashok Jaitley, Chief Secretary, Jammu and Kashmir.

Professor Neerja Mattoo, Former Head of the Department of English, Government College for Women, Sringar.

Mr Mohiuddin, Proprietor, Suffering Moses.

Professor Satish Raina, Chairman, Jammu and Kashmir State Subordinate Selection Board.

Ms. Mehbooba Syed, M.L.A., Congress (I).

4 July 1997

Qazi Ahadullah, Political Secretary, Jamat-I-Islami and Leader, All Kashmir Hurriyat Conference.

Mr M.Y. Khan, Chairman, Jammu and Kashmir Bank.

General K.V. Krishna Rao, Governor, Jammu and Kashmir.

A Senior Officer of the Intelligence Bureau.

Leh*

5 July

R.K. Goyal, District Development Commissioner, Leh.

6 July

Mr Sonam Dawa, Executive Councillor, Ladakh Autonomous Council.

Mr Kalon Rigzin Namgyal, Prominent Citizen.

Mr Phuntsog Wangchuk, Rural Development Activist.

New Delhi

*17 June***

Briefing at the office of the Director General Military Operations by Lt. General I.N. Verma and Brig. Jaitley.

*26 July 1997**

General Zaki, Vice Chancellor, Jamia Milia University and former Advisor to the Governor, Jammu and Kashmir.

*28 August 1997****

Briefing at the Ministry of External Affairs, by Mr Vivek Katju, Joint Secretary, Pakistan.

18 December 1997

Presentation of the Draft Report to the Delhi Policy Group. The meeting was attended by Siddharth Sriram, K.P. Singh, J.K. Bajaj, Lt. Gen. V.R. Raghavan and Pradeep Rao.

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* All interviews in Srinagar, Leh and New Delhi were conducted by Kanti Bajpai and Amitabh Mattoo.

** Briefing at the office of the Director General Military Operations was attended by Kanti Bajpai, Dipankar Banerjee, Amitabh Mattoo, Arun Varma and B.G. Verghese.

*** Briefing at the Ministry of External Affairs was attended by Kanti Bajpai, Dipankar Banerjee, Amitabh Mattoo and Arun Varma.

List of Seminar Participants

Arora G K
Bhan Ashok
Bajaj J M L
Bajpai Kanti
Bajpai K S
Banerjee Dipakankar
Chari P R
Major Gen. Choudhari S
Dave P K
Daruwala K N
Dhar P N
Johari Pushkar
Kapur Vijay
Katju Vivek
Lt. Gen. Kaul Hriday
Brig. Kumar V K
Major Gen. Mehta Ashok
Mehta Jagat
Mansingh Surjit
Marwah Ved
Mattoo Amitabh
Lt. Gen. Nair V K
Punjabi Riyaz
Pradhan D P
Lt. Gen. Raghavan V R
Rao Pradeep
Sawhney K N
Shriram Siddharth
Singh K P
Singh S K
Major Gen. Sudan (Retd.)
Verghese B G
Vohra N N

CHAPTER 7

Economic Development

*Arun Varma**

The economy of Jammu & Kashmir has always been agrarian, contrary to the widely held belief. About 80 per cent of the population derives its livelihood from agriculture, with about 74 per cent of the land holdings being less than one acre. Although the more well known sectors of the State's economy are those of tourism and handicrafts, these activities remain confined to Srinagar. This, in itself, shows up a general flaw in the manner in which the State is seen by the outside world. It is because of this wrong concept that economic normalcy is instantly equated with growing tourist arrivals into the Valley. Increasing tourist flows can be a complement to the general normalcy returning to the State. But any real effort to bring back normalcy to the State should be routed through agricultural production. In other words, there should be fresh infusion of capital into this sector from the government and business. A close look at the agricultural production figures for the State shows that there has never been a fall. Horticultural production actually improved during the militancy. Ladakh can be retained as a tourist spot while the Jammu region can be made a mix of both industry and agriculture. And the Valley should be brought out of its slumber in terms of economic activities. Consider these figures. The average annual growth rate of the State's economy was only 1.83 per cent in the decade of 1980-90 as against the national average of 5 per cent. Per capita Net State Domestic Product (NSDP) at Rs 4212 (1992-93 price levels) puts this state as the third poorest after Bihar and Orissa. There are 1,50,000 youths who are educated upto matriculation and above. Besides, 4,500 technocrats and 750 doctors are unemployed. The annual employment generation in the State is between 3000 to 4000. The number of unemployed people registered with the employment exchange is close to 1,00,000. This clearly underscores the need for a growth strategy which is multi-pronged and time saving. Though easier said than done, none of these steps is impossible. Employment generation at the blue-collar level — preferably in the manufacturing sector — should be one prime objective. Infrastructure for facilitating growth should be the second, and the State's welfare schemes should be the third. With a clear focus on these three factors, the State will be able to clear several hurdles that it faces today.

The only factor that keeps the State from drawing further funding is the special category status accorded to it. Thus, its Eighth Plan outlay of Rs 4000 crore was to be funded fully by the Central Government, ignoring the negative balance of the State's own resources (SOR). Yet another difficulty is the large number of people employed by the government who have not been productive because of the insurgency. The statistics suggest that over 20 per cent — over 3,50,000 in number — of the people in the Valley are government employees. 25,000 are on an ad hoc basis. The annual pay out on salaries alone is close to Rs 1400 crores in 1996-97 as against the SOR of about Rs 275 crores. In other words, the annual plan outlay of Rs 1250 crores for 1996-97 from the Center to Jammu & Kashmir was insufficient to foot the salary bill for the State. Due to the paucity of

Arun Varma is the Press Trust of India's news coordinator. He heads PTI's project on real time business information. He has worked with India Today and The Telegraph. He was awarded the K.K. Birla Foundation Fellowship in 1994.

funds, the State government emerged as one of the largest borrowers from the Jammu & Kashmir Bank Central Assistance to the State for the decade (1987-97) is over Rs 12,000 crores. This demonstrates that the State has to find an alternative resource mobilization plan to reduce its dependence on the Centre.

An alternative method of resource mobilization should hinge on some of the strengths of the State. In this case, the political administration has to act in such a way as to develop faith among the people. Today, expansion of tourism activities and enhancement of horticultural production are comparatively easy ways of achieving this. In 1987-88, over seven lakh tourists visited the Valley and this has come down to a trickle — a few thousand — in the last couple of years. In the initial period, the 1500 houseboats, 1000 shikarawalas, and the 5000 ponywalas and several hundred tourist guides may not benefit because of the general fear psychosis. However, the government can actively pursue "Yatra" tourism. It should also be noted that about 30 per cent of the SDP used to be from tourism. This has been growing despite militancy in the State. 3 to 4 million pilgrims spend about Rs 600 crores annually. Shrines like Vaishno Devi and Amarnath can effectively be developed into major revenue earning centres if the government succeeds in assuring the people of safety. Since there is already a large presence of the military and paramilitary forces, the administration should be able to provide security. Moreover, higher rates of movement of people all through the State will be to the disadvantage of insurgents. The number of pilgrims that visited the Amarnath shrine was 8600 in 1993-94. This touched 3 lakhs in 1996-97. Though there was a mishap in the Amarnath Yatra in 1996, the succeeding trips proved to be well-planned. It may be noted that with elaborate infrastructure all through the route, there were fewer reports of violence on this stretch. Instead, the action has shifted to the south-western parts of the State.

As the next step, pilgrim tourism could be extended to Srinagar. This is possible in the case of Amarnath Yatris. Though the present route takes a diversion from Jammu, with two more successful pilgrimages, the tour operators, led by the State's own tourism development corporation, could offer a route that maps Srinagar as one of the major base camps. This should help revive the existing tourism-related infrastructure in Srinagar. As a logical step, domestic tourist revival should be followed by the arrival of foreign tourists. Since the Ladakh sector has not been hit by the militancy, turning Jammu into the transit point for foreign tourists destined for Ladakh should help maintain stability of tourism-related business. Crowding at Vaishno Devi has already transformed this town into a city with several hotels and related facilities. This, supported by financial institutions, would generate employment. The scope of revival is evident from some past figures. In 1990, the J&K State Finance Corporation had sanctioned 1069 proposals from entrepreneurs seeking financial assistance for tourism-related business promotion. Production of carpets and handicrafts will automatically grow. However, these sectors are not going to generate large volume employment or mass participation. The second aspect is that carpet makers and handicrafts makers had spread out of the Valley in pursuit of potential customers. Therefore, it is no longer necessary to visit the Valley to buy an authentic Kashmiri carpet or wool product.

While the tourism sector needs a good amount of encouragement from the government, agriculture, especially horticulture, needs only reorganising. Kashmir's horticulture production has been lucky to be unscathed by the militancy primarily because this is one activity that comes naturally to the people. A planned approach should help the industry to be one of the frontrunners in terms of revenue. Barring nature's pranks, production of fruit in the State is encouraging. In 1995-96, the production was 7.16 lakh MT. This rose to 8 lakh MT in the succeeding year and is expected to touch 9.06 lakh MT in 1998. The size of the industry in the State is about Rs 500 crore. An interesting aspect is that this industry, through the State's own initiative, has been able to spread across all major markets in the country and into exporting. Export earnings, mostly walnut,

bring in about Rs 80 crore. Proximity to Delhi helps to sell about 58 per cent of the fruit production. Apart from this, the state Horticultural Development Corporation has set up marketing outfits in 14 States.

For Jammu & Kashmir, horticulture can be exploited further. Fruit production and marketing resembles Operation Flood in other parts of the country. 228 co-operative societies across the State with about 500,000 growers are engaged in the activity. It provides indirect employment to over 25 lakh people. By strengthening the co-operative societies, the output can be enhanced further. Financing the harvest is the crucial part. With the breakdown of the banking system, growers are denied access to relatively cheap funds. In the absence of bank credit, middlemen have started financing the crops at high cost, thereby pushing up production cost. Also, the perishable nature of these commodities cause problems to farmers as well as co-operatives. Though the concept of terminal markets - fully equipped fruit collection centers with temperature regulating facilities — has been initiated, the pace is abysmally slow. If the State government finds it hard to finance such terminals, the cooperatives can be encouraged to commission their own. At Sopore, the Horticulture Development Corporation has set up one such terminal at a cost of Rs 3 crore (excluding lands costs).

As in the case of the sugar co-operative societies in Maharashtra, the horticultural co-operatives can be strengthened for higher revenue as well as for employment generation. Cooperative movements are a powerful tool for initiating a political process. A strong political process at all levels of society will keep insurgency in check. A clear example is the unity and empowerment Northern Malabar through the organisation of the beedi workers. The Kerala Dinesh Beedi Works, which was a cooperative society formed for the unorganised beedi workers, got them regular employment and better wages. Since it was a movement heralded by the Communist Party of India (Marxist), the party was assured of a permanent vote bank. In the case of Jammu & Kashmir also, a similar approach may work. Political parties, depending on their strength in different areas, could initiate such a mobilisation programme. This should prove more effective than the government's village level and block level operations. Employment generation can be achieved through two means. After the land reforms of the Fifties, the average holding is about 0.81 hectare in the State. With the co-operatives stepping in, collective farming can be promoted. This should give an opportunity to the political parties to engage themselves in this developmental process. The State's own financial institutions could lend these cooperatives money till they themselves become rich enough to finance crops. While this is true for the landed peasantry, the landless could effectively be used in post harvest activities. Apart from the routine grading activities, there is a vast scope for the packaging business. As per the existing government regulations on environment protection, plywood boxes are discouraged. Currently, a large number of popular trees is felled for cartons. With a shift from wooden boxes to cardboard boxes, a flourishing cottage industry can be promoted, again through co-operatives. This industry, with its requirement for raw materials, processing and marketing could act as an an up-country industry, employing several hundred people. One economic activity leads on to the other. Along with this, cottage businesses like handicrafts, cricket bats, and wicker-willow products should also look up.

Government jobs should cease to be used as an incentive to appease one section or the other. A typical example is ad hoc employment. During the insurgency, people left their homes for safer locations. The posts that fell vacant were filled on an ad hoc basis. Now, the government has the double burden of paying the original employee as well as the ad hoc one. As per the State laws, any ad hoc employment needs to be confirmed by the seventh year. With its proximity to rich states like Punjab, Jammu already has a head start in industrialisation. The Bari Brahmana industrial area in Jammu is the second largest industrial estate after Okhla in Delhi. Industries range from fruit crushing to small and medium engineering enterprises.

Power is one of the most sought after commodities in Jammu & Kashmir. Forty eight per cent is lost in transmission and another 22 per cent in theft. Total revenue to the State Electricity Board does not exceed Rs 100 crore a year whereas it spends Rs 350 crore per annum to generate power. Poor transmission facilities and cost and time overruns of the ongoing projects have led to a situation where, during winter, power cuts range from four hours to eight hours a day. In 1971, the Uri project for 480 MW was estimated to cost 4 paise per unit. However, the current likely sale rate is around Rs. 3 per unit. Behind schedule by two years already, the project has incurred a cost overrun of Rs 1667.38 crore from the sanctioned cost of Rs 1632.62 crore. Similarly Dulhasti, a 390 MW hydel project, has incurred a cost escalation of Rs 2296.8 crore from its original sanctioned cost of Rs. 1262.97 crore. The project, which was to be commissioned in July 1994, is now expected to be completed by 2001. The expected cost of a unit of power from Dulhasti is Rs 5. These two projects are going to make a lot of difference to the power crisis in the State.

Jammu & Kashmir's industrialisation is heavily dependent on the power scenario. Without significant improvement in the power situation, no capital-intensive industry can be expected in the State. And only capital - intensive industry can sustain winter levels of employment. Assuming that the present government gears up for a fast track power policy, the state may be able to sell some power to other states like Himachal Pradesh or Punjab. In J&K's case, power is a State subject and therefore the administration alone can decide on future policy. The only problem the State may face is that since two of its prestigious projects are lagging behind, new power producers in the private sector may hesitate to invest, especially with the threat of the law and order situation looming large.

Equally important is road sector development. The State has 12,575 km of roads. However, this is proving to be inadequate for a state that aspires to a place on the industrial map of India. Heavy investment needs to be made for all-weather roads linking the main cities like Jammu and Srinagar. Considering the geographical nature of the State, a steel plant or a chemical factory may not be appropriate. But high-value industries like software parks, electronics industries and pharmaceuticals could be invited to set up shop. Industries like food processing have started in the Jammu region. It could expand to the Valley. The key precondition would be motorable and reliable roads as well as power.

One of the senior functionaries of J & K said that to generate trust among the people, the government should go in for special employment plans. However, creative and feasible ideas are absent. Instead, the government could send aspiring students to various universities and educational institutions outside the State by seeking a special Kashmir quota. This should help many to find employment. The government could tie up with educational institutions in the rest of India to send Kashmiri students on scholarships. This is happening at the higher end of society. Rich parents are sending their wards to engineering colleges and medical colleges in Karnataka and Maharashtra. A general, government-backed policy would enable talented students from the economically weaker sections also to avail of opportunities. And the costs involved would be negligible.

Economic activities in general need institutional financing. Jammu & Kashmir is witness to a unique situation, where there is low credit offtake despite growing deposits. Deposits within the State in 1987-88 were Rs 1163.3 crore and went on to touch Rs 33490.4 crore in 1994-95, whereas advances were Rs 525.37 crore in 1987-88 which grew to Rs 1493.7 crore in 1994-95. The Credit Deposit Ratio is 40 per cent compared to the national average of 70 per cent. This implies that the State has got tremendous scope for financing various entrepreneurial ventures. Non-performing asset (NPA) levels are high, which act as a deterrent to further credit. Today, much of the profitable business activities of the Jammu & Kashmir Bank take place outside the State — in places like Delhi and Punjab. It is also true that the lending institutions cannot risk lending to those with poor creditworthiness. However by building up peer pressure, lending schemes can be

made more accountable and transparent. The idea is to identify several clusters which are eligible for credit.

These clusters are allocated a certain sum for disbursement. Depending on the genuineness of cases, the loan amount is disbursed through these clusters. The mechanics for a peer pressure loan disbursement scheme is the following. For example, apple-growers in Kishtwar who have less than an acre holding in one village could form a cluster. One branch of the bank may cater to two or three villages. The loan requests are initially screened at the cluster level and then forwarded to the bank. The bank, after verifying with the loan applicant as well as with the cluster official, sanctions the loan. The cluster is in danger of not getting a loan if this one person defaults and, therefore, there would be peer pressure on him to repay the loaned amount. For the bank, the genuineness of the applicant is doubly verified since he comes with the clearance of the cluster. The Grameen Bank of Bangladesh (GBB) has tried this and was tremendously successful in implementing the scheme. Through this experiment, the NPA levels were brought down to just 3 per cent, from levels of 60 to 70 per cent. Taking a few tips from this, the National Banking for Agriculture and Rural Development (NABARD) is formulating some guidelines for rural credit in various parts of the country.

	1980-90	1990-91	1991-92	1992-93	1993-94	1994-95
Handicrafts (RsCr)	150	181	202	226	240	250
Horticulture (L.Ton)	7.6	7	8	7.87	8.73	8.2
Foodgrains (L.Ton)	1142.1	1366.4	1404.5	1377.2	1454.9	1544.1
Tax Receipts (RsCr)	219.5	232.7	280.4	325.9	224.7	243.7
Salaries (RsCr)	444.9	530	611.52	878.75	913.75	1069.66
Deposits (RsCr)	1539.1	1968.7	2011.9	2233.4	2724.5	3490.4
Advances (RsCr)	489.31	958.1	864.34	993.8	1245.04	1493.7
Infrastructure						
Electricity (MW)	268	268	274	296	360	387
Roads (Km)	10992	11256	11691	12252	12252	12575

	1988-89	1989-90	1990-91	1991-92	1992-93	1993-94	1994-95
Total Grants	435.21	481.4	600.54	931.93	902.24	1359.2	2058.4
SDP (RsCr)	2601.31	2702.15	2950.94	3167	3368.05	3470.71	4264.1
Grant/SDO (%)	16.73	17.81	20.35	29.42	26.78	39.16	48.27
SDP Growth							
Himachal Pradesh	9.35	15.43	15.66	9.43	10.9		
J&K	5.49	2.79	6.22	9.64	7.86		
Assam	20.69	4.73	16.9	10.7	9.84		

CHAPTER 8

Internal Security

*Dipankar Banerjee**

The Backdrop

On 22 October 1947, barely two months after the division of the sub-continent and independence from British rule, thousands of Pathan tribesmen from the Northwest Frontier of Pakistan attacked the princely state of Jammu and Kashmir (J&K). Equipped and armed by the Pakistan Army, led by its regular officers on leave and transported in trucks commandeered by State authorities, they reached the outskirts of Srinagar by 26 October. Maj Gen Akbar Khan of the Pakistan Army was the overall commander of the Force. He has told his story in the book *Raiders in Kashmir* and has claimed that his forces would have captured Srinagar the next day. But instead, Lt. Col. Ranjit Rai's Sikh Battalion landed in the airport on the outskirts of the city in the early hours of the morning of 27 October. He immediately moved out in search of the raiders and drove them back. This saved the Valley from pillage and rape, a fate that had already befallen the people of Baramula.

The earlier two months saw hectic attempts by Lord Mountbatten and others to make the Maharaja of J&K see reason. He could accede to either India or Pakistan, but he chose instead to dither. The story of these two months has been told elsewhere and needs no repetition. It was the Maharaja's signing of the Instrument of Accession to India in the face of Pakistani aggression on 26 October that made it imperative for India to defend the State. It led to an intense conflict for a year and a half, a war that was fought in the hills and plains of J&K and in the high altitudes of Ladakh. It came to an end with a cease-fire on 31 December 1948, brought about by India's taking the issue of Pakistani aggression to the United Nations. This left the State divided, with much of the north and a portion in the west under Pakistan's occupation. The Vale of Kashmir, populated mainly by Muslims, Buddhist Ladakh and the predominantly Hindu Jammu region remained with India. This was the first attempt by Pakistan to capture J&K. Several other attempts would follow over the next fifty years, taking different forms and changing strategies, but the ultimate goal always remained the same - to pry the State from India through force of arms. The Indian Army is committed to prevent this. The Simla Agreement of 1972 enjoins both sides to resolve the issue through bilateral discussions. India is committed to uphold this principle. It is unlikely to make any effort to recapture the rest of the province that rightly belongs to it. At the same time, under no circumstances will it allow Pakistan to change the situation through aggression.

The Indian Army has remained in J&K since 1947. Its strength in the province in 1950 was around 60,000 soldiers or an army corps. Since then, as the situation changed over the years, the total number of security forces (SF) in the entire State has gone up to about 2,40,000 including large contingents of para-military forces such as the Rashtriya Rifles and the Border Security Force (BSF). Yet, force is not the solution to J&K. Force can defend the borders from external aggression. It can prevent internal subversion to destabilise

Dipankar Banerjee (Project Co-Director) is Co-Director of the Institute for Peace and Conflict Studies, New Delhi. He retired as a Major General from the Indian Army and served as the Divisional Commander in the Kashmir Valley where he was in charge of Counter-Insurgency Operations. He has been Deputy Director of the Institute for Defence Studies and Analyses, New Delhi.

the State. But, force cannot ensure the willing co-operation of the people of the State to subject themselves willingly to the nation. Other and more political approaches are essential for this. Yet, force has a role in order to restore normalcy. The Indian armed forces are determined to play this role and are confident of being able to do so. The question is to develop the most appropriate strategy for this. In the years immediately ahead, what are the likely challenges and how should the SF respond to it both internally and externally? This paper will attempt to address these issues in a near-term perspective.

An Assessment of the Current Situation

After seven and a half years of active insurgency in J&K, it is time to take stock. The sudden capitulation of the government in December 1989 on the kidnapping of Dr. Rubaiyya Sayyid came as a surprise, both to the perpetrators of this heinous act as well as the population at large. In a sudden mindless euphoria the people felt that "Azadi" had arrived, a concept with which they were entirely unfamiliar and which meant different things to different people. To some it was the possibility of jobs and a better living standard. For some it meant development. To others it meant an end to corruption among senior government functionaries. To some others it meant greater political choices, autonomy and even independence. To others it also meant accession to Pakistan. But whatever it was, the feeling was strong, and the people's expectations were high and their response was spontaneous. It caught the Indian government entirely by surprise. It took the Pakistan authorities also unawares. Even though they had prepared for this assiduously for several decades, they were surprised by its sheer suddenness.

The Indian response took time to mature. But, having stemmed the tide in the first two years, the SF quickly stabilised the situation in the next two. From 1994 the Forces were on the offensive. Elections in the State would have been held earlier, but when they did take place in 1996, the results were surprising. Over 55 per cent of the people participated in the second phase of elections to the State Assembly. A popular government was installed. A phase in the insurgency has now ended. What is the security situation today?

An Assessment of the Situation

A review of the number of casualties, of the numbers of militants captured and killed, of foreign mercenaries inducted into the Valley, and of the large quantities of weapons, ammunition and explosives secured by the SF tells it own story. It is not the purpose of this paper to analyse that data. Suffice it to admit that, statistically, there are no clear indications. In terms of Anti National Elements (ANEs) killed or apprehended, seizure of arms and ammunition or casualties suffered by our own forces, there is no appreciable difference over time. It does not indicate any trend. No credible opinion poll has been carried out in the State which might shed some ideas regarding the way the people of Kashmir are inclined. For, in an insurgency, it is not the capture of arms or the numbers of militants killed that are the most relevant. Rather, it is the approach and attitude of the people that determine the state of insurgency. There is a perceptible change in the environment today. People's weariness with the long period of disturbance and attrition is high. Participation by Kashmiris in terrorist acts is low. There is a desire for normalcy as reflected by activities in Srinagar and other towns. Foreign mercenaries are now committing most of the terrorist acts.

At the same time, some things continue to remain unfavourable. The people's alienation from the State remains very high. Foreign mercenaries continue to enter the State in significant numbers. The influence of the Jamaat-e-Islami (JEI), the political force behind militancy in the Valley, is considerable. Normal developmental activities are yet to resume. There are frequent calls for bandhs (closure) by assorted groups on one pretext or the other. But, there is also an apparent state of normalcy in the towns and villages. Schools are gradually beginning to function. Cricket is played on the village greens on most days. The people are beginning to visit the lovely gardens and take trips to Gulmarg and other picnic spots. The Kashmiri fondness for the

good things in life is beginning to assert itself after a long period of darkness.

With the establishment of a popular government in the State, the first phase of insurgency has ended. The euphoria of "Azadi" is gone. A small number of Kashmiris are directly opposing the militancy. A very large majority would like to begin life anew and pick up the threads of normal life after seven wasted years. They are sitting on the proverbial fence. A significant minority would still like to continue on the path of violence. With persistent alienation amongst the people, this minority might be able to win over the fence sitters if the conditions do not improve early and the State administration is not seen to be responsive to their needs. The elected government has not been able to make a difference as yet, and will need time to deal with the situation administratively and politically. The question is, do they have the time? One of the principal tasks of the SF will be to provide that space to the Government to win back its legitimacy in the eyes of its own people.

The situation is not ripe then to lower our guard or reduce the pressure on the militants that has been carefully built up over the years. The Prime Minister summed up the situation well some time ago. The SF are not there of their own volition. They are there in response to a situation created by a hostile power. As soon as these conditions change, the soldiers will return to their barracks. Till then there is an imperative need to maintain the momentum of success and to discuss the measures required in the years immediately ahead. Much will depend on what Pakistan proposes to do. The initiative continues to be with Islamabad.

Pakistan's Objectives in Kashmir

Kashmir continues to be an obsession with Pakistan. Whether we like it or not, the reality of this cannot be wished away. It is not merely because 'K' in Pakistan stands for Kashmir and without it somehow the nation is not complete; or, that in Islamabad's perception, Kashmir continues to be the unfinished agenda of partition; or, that the existence of a Muslim majority province on its border with India contradicts the very raison d'etre of an Islamic Pakistan and the two-nation theory. The reality is that these perceptions are deep and widespread especially amongst its elite and the middle class. The capture of Kashmir continues to be a matter of faith with the Pakistani military. It is the next major agenda after Afghanistan. The task has been entrusted to its powerful and semi-autonomous Inter Services Intelligence (ISI). And, it is an article of faith with its radical Islamic organisations.

This obsession with Kashmir was heightened after the secession of Bangladesh. It is particularly deeply entrenched in the psyche of the military. While the military retains its veto power over security decisions in the State, we will have to accept that a political settlement with Pakistan on J&K will not be an easy process. The heavy firings along the border in northern J&K in 1997 and 1998 and intermittently since then proves this point. It was not the normal rifle and machine gun fire along the 'line of control' that takes place often as a matter of course and quite often in the middle of August. Usually this is to facilitate infiltration by terrorists. This time it was different, both qualitatively and quantitatively. The firing was by heavy mortars and medium artillery. The intensity of shelling was considerable. Each sector received thousands of shells. The spread was all along the border in the east from Poonch, Uri, Kargil and extended to the Northern glacier.

There may be a difference, perhaps rather limited, between what the ordinary Pakistani people might want in between Kashmir and what the military wants. But, until such time as Pakistani citizens can strengthen the Government's hands, the role of the Pakistani armed forces will continue to be decisive. Today, the military continues to dominate Pakistan's Kashmir policy. It will take a long time to change this situation, perhaps till such time as Pakistan finds its national development seriously affected and its economic security held hostage to the Kashmir question. When this feeling is pervasive around the nation, the armed forces may be persuaded to desist from the military option. It would be unrealistic to hope that the political leadership will be able to develop

a consensus favouring a negotiated settlement on Kashmir anytime in the near to medium term.

Pakistan's Role

While Pakistan's objective in Kashmir will remain constant in the near future, its strategy is likely to change and adapt to new conditions and the reality of the environment. It may be useful to examine in outline its past policies in J&K. An attempt at destabilising the State began soon after the liberation of Bangladesh. Zulfiqar Ali Bhutto's obsession with Kashmir was no less than that of the Army. On his assumption of power he devoted greater resources to it. He quickly gave a new orientation to Pakistan's foreign policy and took it westwards and towards Islam. Links were established with the Islamic world and the Organisation of Islamic Countries (OIC). Support to the Jammat-E-Islami (JEI) in Kashmir increased. The story of the present situation in the Valley begins with the introduction of orthodox Islam of the Wahabi Sunni variety through the proliferation of Islamic schools in the mid 1970's. The attitude and approach of Sufi Islam, the dominant influence in Kashmir, was steadily undermined. Religious fundamentalism slowly increased in the State. Support to separatist forces was stepped up from across the border from the early 1980s. Dismissal of the Farooq Abdullah government in 1984 led to further distrust and deepened the alienation. Youths began to exfiltrate in significant numbers across the Line of Control (LOC). Many were attracted by the call for jehad in Afghanistan. Some went out of curiosity and the lack of anything better to do. But, the numbers were large. These persons provided the core of militant leadership during the insurgency. Exfiltration continued throughout the 1980s. That so little was known of these developments to the Indian government comes as a surprise. If more was actually known, then the indifference of the State to these developments are a cause for great concern.

There is every reason to assume that Pakistan was taken by surprise by developments in Kashmir in December 1989. It was not prepared for any follow-up actions. Had the events taken place in the summer rather than in the height of winter and had the Pakistani military intervened then on the pattern of 1965, the situation subsequently may well have been different and a war may well have resulted. Of course, both the Pakistani military and the ISI quickly got their act together and exploited the situation to the maximum extent possible and promptly initiated a proxy war. This included all manner of support short of direct intervention. Some of its facets were:

Training to the Kashmiri youth recruited by the JEI and exfiltrated to POK. Indian intelligence estimates have identified upto 137 camps set up for this purpose in POK, Pakistan and Afghanistan. These were not quite the orthodox military camps with barbed wire and fences. They were mainly informal arrangements for motivation and weapons training and religious indoctrination in adhoc settlements and rural habitats.

Supply of small arms and ammunition from the huge stockpile of the Afghan War. The Human Rights Watch Arms Project report of 1994 has traced this pipeline and documented it with care from Western sources. According to it, a former head of the ISI told an American journalist in 1993 that the ISI still had access to three million Kalashnikov rifles, kept packed and greased.

Financial support to the militant groups in direct support of their operations amounted to about Rs. 2.3 crores, and since 1995 to about Rs. 3 crores per month. This was to meet only the local expenses of the militants in Kashmir.

Induction of foreign mercenaries. Till 1992 militancy in Kashmir was sustained almost entirely by the Kashmiri youth trained in and supported by Pakistan. It soon became apparent that this would not be successful. The Kashmiri youth were inadequately motivated and lacked sustaining power. Many became disillusioned at the way they were treated by their ISI handlers. They realised early that they could not stand up to the SF. It was then that the ISI decided to step up operations by directly inducting foreign mercenaries and taking a firm grip over the conduct of the proxy war.

The question of direct military intervention, as in 1965, was a theoretical option, but the

Pakistani military knew that this would prove counter-productive. To keep the insurgents' morale high, promises of intervention were made regularly. The disadvantages of intervention were many. It would expose Pakistan's game in J&K to the whole world. It would in turn enable the Indian Army to retaliate with all its might. To this, the Pakistani Army with its continued involvement with Afghanistan would have no answer. Finally, the costs of such an adventure would severely cripple Pakistan.

Future Options for Pakistan

It is against this backdrop that the Pakistan Army's plans are likely to evolve. Its armed forces are highly professional and the ISI has had a long experience of dealing with subversion and terrorism during its commitment in Afghanistan. They also have a long experience in dealing with the situation in J&K. It has to be accepted, then, that Pakistan's future plans are likely to be pragmatic and well considered. The broad options of the Pakistani forces in J&K are discussed in this section.

An Overt Attack. To launch an overt attack primarily in Kashmir and later across the whole of J&K. The preparations will be made in secret and the attack will be launched with maximum surprise. The aim is to reinforce the insurgency within. The expectation may be that direct intervention will lead to a spontaneous uprising in the Valley. It will also internationalise the Kashmir question, involve the UN and other external agencies and thereby force India to accept international mediation. This is expected to support the Kashmiri cause.

A Gradual Escalation to an Attack. This is a variation on the first option. An attack would occur through a process of steady accretion of hostilities, perhaps through escalation in firing along the LOC, both in intensity and spread. This would be followed by stepping up the scale of violence through selective attacks on posts, occupation of territory this side of the Line, and co-ordinated attacks on vulnerable posts. The attack will be designed to provoke Indian counteractions, which could then escalate to a war. The onus for starting the conflict may then be placed on India through media manipulation.

A Covert Offensive. Similar to the first option but led by subversive and fundamentalist Islamic groups in the name of jehad. Pakistan may take refuge behind statements suggesting that these were spontaneous developments from within POK. This would be similar in some respects to the Taliban approach, with a range of variations depending on the situation. It may well be an option after the Taliban are freed from their current commitments in Afghanistan. If they are successful there, the Taliban may be confident and have the requisite morale to risk such an adventure. If not successful, they may be unleashed as an act of vengeance to atone for their lack of success. This approach is likely to draw attention to the Islamic orientation of Pakistan's policy and may be criticised in the West.

Proxy War. This is continuation of the present policy with variations depending again on the situation. Some aspects may be: greater involvement of the Pakistani military, larger induction of international Islamic mercenaries, limited introduction of Taliban forces, and escalating the intensity of internal conflict through greater use of IEDs and more sophisticated weapons.

Analysing Pakistan's Options

A direct military intervention is likely to have severe adverse repercussions on Pakistan. The Indian Army is poised effectively to defend J&K and can defeat all such attempts, perhaps after some initial setbacks if surprised. It can then also launch counter-offensives in vulnerable sectors of Pakistan. Even more than in the past, the consequences will be very unfavourable to Pakistan. There is a sufficient acceptance of this reality in Islamabad. Therefore, the first two options are less likely to be adopted.

A covert offensive involving the Taliban may well appear attractive to Pakistan, depending on how the situation develops in Afghanistan. Given the history of 1947 such an attempt may have its advantages. Again, the current security deployment by India would restrict severely any chance of

success. But, this could draw some sympathetic international support, primarily from Islamic states in West Asia and help internationalise the question.

The more likely future scenario is likely to be the continuation of the proxy war. More and more, this will aim at internationalising Kashmir, through the international media, the OIC, human rights groups alleging violations, and other similar measures. Militarily, the attempt will be to persuade large numbers of international Islamic mercenaries to participate. More sophisticated weaponry will be used. Terrorism will be spread wide through a nexus with other organisations. Violence may become more indiscriminate, through the use of explosive devices planted randomly, as well as selective use of IEDs by well-trained experts. It may also become more specific through targeting by suicide squads, on the pattern of West Asia. On balance, contimation of the proxy war is likely to be the preferred option.

Role of Security Forces in Counter-Insurgency Operations

At this stage it is necessary to clarify in an encapsulated form the role of the security forces in counter-insurgency operations in general and in Kashmir in particular. An insurgency is an intensely political phenomenon. Its resolution also naturally lies in the realm of politics. In Kashmir, the history of Accession has provided a basis for the movement and also provided its political goal. But, a major cause is the emergence of a fundamental Islamic identity, widespread corruption in the administration, lack of employment for the youth, absence of development and a feeling of discrimination. Only political initiatives and good governance can address all these issues.

The SF task is to bring about a situation where political processes and initiatives can be restarted. This is done through establishing an ascendancy over the militants by demonstrating that the use of terrorism and force cannot succeed against the might of the state and by bringing down violence to levels where normal activities in the State can be pursued with the least disturbance. Finally, SF seeks to re-establish political and civil authority and enable them to function effectively.

It can be claimed that the above has been achieved in J&K with the successful completion of elections in 1996. But, that is only part of the story. The political structure today is in disarray. The Administration has ossified due to misuse. They both need time and space to operate. The civil authorities need time to re-establish the administration. New leaders need time to establish their credentials and a degree of credibility with the people. The bureaucratic set-up, dormant for eight years, needs time to rejuvenate. All this is a protracted process and cannot be achieved in a hurry. At the same time, the people are not willing to wait and have neither the patience nor the forbearance to understand the difficulties facing the government. The SF will have to ensure that conditions continue to remain favourable for this and also assist in the process of a speedy return to normalcy. Therefore, the SF task is not done till the Administration is once again in full control.

The establishment of a stable situation is a primary task of the SF. But, it is nobody's case that this is to be achieved by the forces alone. It is ultimately the responsibility of the state and its law and order enforcement mechanism. With the re-establishment of civil authority, it is natural that the political leadership would want a greater say in the process. But, time and again in India, we have witnessed that a premature withdrawal of the SF and a relaxation in the process of countering subversion has led rapidly to a return to lawlessness. A greater circumspection is in order, particularly in Kashmir, with its intense foreign involvement. In a "proxy war", truly the line between internal and external conflict gets blurred. Even though it may be in contradiction with our existing philosophies of governance and against the national psyche, a "proxy war" is a war by another name. It may be fought in a covert manner, but is no less vicious. Any handling of the situation has to involve the SF more intensely in the final resolution of the conflict. The forces required for the purpose and the measures needed to be adopted must be left to the SF alone to decide. Their hands must not be forced nor tied, nor their judgement influenced by extraneous

considerations. At the same time, responsible behaviour by them and a sense of restraint is vital for ultimate success.

India's Strategic Options

It is in this milieu that India's security strategic options need to evolve. The first issue is the nature of this option. Should it be pro-active or reactive and if so in which dimensions? It is not possible to draw a clear defining line between these two extreme approaches. The Indian position is that the entire state of J&K is an integral part of India and hence is an internal matter. Differences between India and Pakistan need to be resolved through bilateral dialogue between the two countries within the framework of the Simla agreement. External powers have neither a role and hence no part in intervening in the situation. Past international attempts give us no cause for optimism. Externalisation of this issue is likely only if there is an outbreak of inter-state conflict. In that case, the UN mandate may allow it a role. It is not in India's interest to let that happen. The complexity of the situation and its possible ramifications in the internal affairs of India are not likely to be understood or appreciated by an external actor. There is no assurance of a veto in the UN Security Council to prevent intervention. It is vital therefore that we show greater restraint and eschew a pro-active military approach. For the time being, till the issue of the entire state of J&K is resolved, India needs to ensure that the LOC remains the defining line. It is thus not in India's interest to breach it. It must not allow Pakistan to do so either. This will mean that in a military sense India needs to adopt a reactive policy, but not necessarily a passive strategy.

In the political arena, the approach needs to be much more active. In particular, it needs to highlight Pakistan's support of international terrorism. Whether Pakistan is actually declared a terrorist state is for other nations to decide, according to their own interests and concerns. But, its attempts to promote terrorism internationally need to be deliberately exposed. A carefully crafted strategy must be an integral part of India's response.

Outline Strategy

Within the broad parameters of this approach an overall strategy needs to be evolved. This will have to be flexible enough to adapt to the changing policies of Pakistan. In that respect it will need to react to Pakistani initiatives, but in all other aspects it must have the capability to initiate actions.

Overall Command and Control. The bane of counter-insurgency operations in India is that all the forces under the state have tended to operate in their own little separate empires. They have followed their own channels, had their own priorities and have functioned independent of other organisations, sometimes acting in a manner contrary to the other forces and against national interests. This is a sure prescription for failure. In any military endeavour there has to be an unity of effort, a synergisation of the activities of the different elements for the achievement of the overall goal. There are two aspects here. One is command; and the other is control. While command is more a function of execution, control implies planning and optimising the use of resources. It is unity of control and co-ordination that is vital. Command is best left to the leaders of different forces. Therefore, the overall purpose of optimising resources and their utilisation is best achieved by a United Headquarters and not by unified command. In any case, unified command is ill suited to our democratic ethos where checks and balances must prevail and no one individual should have command over diverse and extensive forces. What this means is that each force must function under its respective commander in a manner that is best suited to its organisation and ethos. At the same time, they must co-ordinate their actions and respond to an overall plan. There must be clear unity in this. The actual method of its implementation may vary with each different situation. But, it should be entirely a professional body, with political intervention restricted to laying down broad guidelines and policy. The current system in J&K is working well. It needs only to have a dedicated staff from different organisations. It should also meet more frequently. Four levels are recommended for J&K

as follows:

- *State Level.* Under the Governor with the Chief Minister and the GOC in C Northern command and other senior officials both from the State and Centre if necessary. This will primarily be a planning body. It will be responsible to assess the overall situation, lay down broad guidelines, allocate resources as required and formulate major security policies. The HQ should have a small staff located at Udhampur comprising senior representatives of major forces and the civil government.
- *Sub-State Level.* Two Unified HQs should be set-up, one each at Jammu and Srinagar. These will be under the respective Corps Commanders. The composition will be similar to the State Level HQ, but may include additional operational staff, in particular intelligence, media and publicity heads. The HQ should meet at least once a week.
- *Additional Combined HQs* will need to be established at the level of Army Divisions and a group of Districts. This may be optional and vary as per the requirement.
- *District Level Combined HQ.* A HQ at District level on similar lines is a must. This can function under a Brigade Commander or equivalent and will be a key level to oversee implementation of policies and monitor progress of developmental works. It will need to have some financial authority to ensure their implementation. If each member of Parliament can be provided two crore rupees for development in his constituency, where it is often squandered, even a paltry sum with this HQ can show results. This is the experience since 1990 in Kashmir where an amount of Rs 10,000 per district with the Army formations had something to show at the end. Simultaneously, an amount of Rs 8 crore was misappropriated in one district alone by the civil administration. Therefore, the District level should be used as the "cutting edge." The group should meet at least twice a week. There will of course be enormous resistance to this set-up from a large number of vested bodies. But, if the people have to be provided a decent administration there may be no alternative.

Strength of Forces. Contrary to popular perceptions, the quantum of forces needed to deal with an insurgency can be easily determined. It will vary of course with the intensity of operations and the prevailing environment, but there is a practical and simple way of arriving at an approximate and appropriate figure. Factors that determine this are broadly: the area or spread of terrorism, total population and its breakdown, the number of hard core terrorists and the quality and numbers of weapons with them, and finally the influence of external actors. If optimum forces are not deployed, terrorism takes root and spreads. Control later becomes more difficult. In J&K, the situation is made particularly hostile because of the long and difficult border which requires very large numbers of forces to be committed for anti-infiltration tasks. It was the inadequate, uncoordinated and half-hearted response of the central government in 1990-92 that prolonged the insurgency in the State. If a holistic approach had been adopted then and sufficient forces committed to deal with the situation at the time, the insurgency would not have continued. The result of any premature reduction of forces now will lead to the same result.

The pattern of SF deployment is characterised in India by the term, CI Grid. This means deploying forces near towns and major villages in order to oversee the population and thereby slowly influence them, keeping sufficient forces in reserve to deal with contingencies. It is on this basis that a realistic assessment can be made of the strength of forces required. Whatever the quantum of force deployed, it must be based on a CI grid. Concentrating forces at distant places to sally forth for operations is ineffective and counter productive. It was our failure to adopt this posture till 1993 that prevented effective CI operations to be conducted in the State till that date. A SF unit must be responsible for a particular area and should be centrally deployed within it. There should be no attempt to change a unit from one area to another, save for exceptional circumstances. It is only through this method that units can be held

accountable for their actions and human rights violations reduced. An attempt at firefighting by moving forces from one area to another on the least pretext is very tempting for senior commanders and must be resisted. Central reserves should be used for such contingencies. Adopting a CI grid is not easy. It takes time and effort and costs money. But it must be persisted with if success is to be achieved.

The Composition of the SF. Ultimately, both in quantity and quality the nation must be ready to deploy forces that are necessary for the task. But, it should never be necessary to deploy the Army at all times. As early as is feasible the regular Army must be withdrawn. Selective deployment may be necessary to strengthen critical areas and boost the capability of forces for mobile operations. Otherwise, after the initial crucial stage the Army should be removed. But, this needs to be replaced by an effective SF that can respond to situations as they develop. A major reassessment of para-military forces in the country in order to deal with the challenges of today is an imperative that cannot be overlooked. Yet, until this can be achieved a general recommendation for deploying the SF is suggested below:

- *Rashtriya Rifles* (RR). Like the Assam Rifles in the Northeast, the RR should be the main counter-insurgency force in J&K. Their organisation and composition must continue as at present and reflect truly a para-military organisation. Officers must all come from the regular army and largely on a regimental basis.
- *The BSF.* If the BSF, primarily a border protection force, has to continue to shoulder the responsibility for counter-insurgency, it must create a new wing entirely for this purpose. In organisation, age (a younger profile), special arms and equipment and in the manner of organisation and training it has to adapt to the requirements of a special active duty force. It must also adopt a regimental system in its unit organisation. This will call for a complete overhual of its organisation. Otherwise, as it is constituted, it cannot be entrusted with continuing high-intensity employment in J&K.
- *The J&K Police.* Ultimately it is the J&K Police that must be responsible for law and order within the State. This force must be boosted and restructured to reflect the changing security environment. Local policing at the Thana level must be strengthened. The revitalisation of the J&K Police must be a high priority and urgent task. Already this is beginning to show satisfactory results. Its progress has to be ensured and it must remain depoliticised.

Restructuring Intelligence. A major limitation of the counterinsurgency response in J&K was in the area of intelligence. The massive subversion that was underway since the mid 1970s and specially in the mid 1980s went entirely unrecognised or was at least unanalysed. It may have been reported piecemeal by various intelligence organisations, but was never noted at the State or at the Centre. The intelligence setup reveals many layers of weakness. The near total absence of coherent analysis and assessment, the reluctance to share intelligence between different organisations and probably even to transmit information to active levels were the more glaring failures. These weaknesses must be overcome. Though many of them are applicable nationally, some immediate actions are required in J&K.

Force Effectiveness. Counterinsurgency operations are considered a low intensity conflict waged at minimum levels of overall violence. However, at its point of impact, where clashes take place, it is indeed intensely destructive. Therefore, it is entirely logical that this conflict should take place as efficiently as possible. This is where technology becomes vital. So far in India the SF have functioned in a state of inferiority to the militants. The militants have almost always had the advantage of better weapons, more effective communications equipment and even better web equipment to hold weapons and ammunition. This situation is unacceptable and needs to be remedied speedily. The Indian Army needs to devote much greater resources to deal with an ongoing situation than prepare for the long-term eventuality of a major war. The reality of ongoing low intensity counter-insurgency operations cannot

be wished away. These will be with us for a very long time to come. It is indeed the new face of war. More thinking and effort will have to be directed towards this in the future. Given this reality, the Indian Army should ensure that the following areas receive priority:

- A light combat weapon, not necessarily to kill but to wound.
- Better crowd control weapons.
- Specialised communication and transmission detection systems.
- Lightweight personal protection systems.

Conclusion

By now, in India, the lesson is well understood that an insurgency within our borders is not a purely military problem, that its solution is not likely to be found pre-eminently in a military response. We have far too often in the past relied entirely on the military. The situation has been handed over to the Army and the nation has then forgotten all about the question. It is accepted now that the solution to internal insurgency lies in the simultaneous application of political and military initiatives, with the other causes of alienation being tackled simultaneously. There has to be a judicious blend of the political and military response.

The strategic response will have indeed to contend with a host of new issues. The calibrated use of force both against an outside power interfering within and against those who are rising in their support must be very carefully crafted. While the first has to be considered an "enemy", the second must be approached as an element that has developed anti-national tendencies because of a number of complex conditions and must be dealt with differently. But in all cases the effectiveness of the military response must be a key component of a Kashmir policy for the future.

CHAPTER 9

Autonomy, Restructuring and Peaceful Resolution

*B. G. Verghese**

Introduction

The Kashmir question has been one of India's major domestic, security and diplomatic concerns since Independence. The Maharaja's accession on October 26, 1947 followed the tribal invasion of the State with Pakistan's full support and legitimised India's military intervention. The ensuing war ended on January 1, 1949 virtually partitioning the State along a ceasefire line that left a third of both the population and territory under the control of Pakistan.

India's acceptance of the Instrument of Accession was complete in every respect. Yet, in his letter to the Maharaja, the Governor-General said that "it is my Government's wish that, as soon as law and order have been restored and the soil cleared of the invader, the question of the State's accession should be settled by a reference to the people".

However, the governing resolution of the United Nations Commission for India and Pakistan of August 13, 1948, calling for a ceasefire and truce to be followed by a reference to the people, was not honoured by the latter. The elaborate terms of the truce, an essential precondition to a plebiscite, were not merely not implemented by Pakistan but also were openly flouted by it. Ten years later, the UN Representative, Gunnar Jarring, opined that the passage of time and changing circumstances had rendered the UN resolutions obsolete. This had been the Indian view.

Two wars and two proxy wars later, the situation remains unchanged. Pakistan has failed to annex the State which remains divided and bruised. While a secessionist group continues to seek self-determination through union with Pakistan, others seek independence for all of J&K on both sides of the Line of Control. Neither is feasible. J&K is an integral part of the Indian Union and there will be no second partition. The perfectly fair elections held in 1977, after Sheikh Abdullah's restoration, and in 1983, and yet again in 1996 provide popular endorsement of this position.

There has undeniably been discontent and alienation in the Valley, especially in the wake of the maladroit political management of the State between 1952 and 1975 and between 1984 and 1987. The latter gave birth to armed insurgency with powerful and sustained cross-border support. This only brought more grief. Nevertheless, the use of arms has once again clearly failed. While nationalist forces have rallied, significant sections among those alienated from the Indian state have come to adopt the more realisable and practical objective of seeking greater autonomy, self-determination or azadi within India.

The Government of India too has stated its willingness to consider greater internal autonomy for J&K. Mr Narasimha Rao spoke in 1995 of "anything short of independence". A year later, Mr Deve Gowda referred to "maximum autonomy". The present government of J&K, headed by the National Conference, has accordingly set up two committees. The first is to make recommendations on a general framework of state autonomy which

B.G. Verghese is Research Professor at the Centre for Policy Research, New Delhi. He has been editor of The Hindustan Times and is one of India's best known journalists.

can be debated and negotiated with the Centre. The other is to report on regional autonomy within the State. The two will have to go hand in hand in view of a variety of circumstances.

Autonomy and Integration

The term "autonomy", so widely used, essentially implies an adjustment in Centre-State relations. The use of symbols such as a State flag and nomenclatures like Sadar-i-Riyasat and Wazir-e-Azam in place of Prime Minister or Chief Minister are really subsidiary issues. Their figurative connotation of higher precedence or importance is without any real additionality in terms of substantive content. Nevertheless, symbols are supremely important when dealing with a people's psyche.

It would be useful to lay to rest a popular muddle that has entrapped highly placed minds. This is that more autonomy means less "integration" with India and vice versa and that "full integration" will be achieved by abrogating Article 370 of the Constitution. The fact is that Article 370 has nothing to do with integration which is governed by Article 1 and the First Schedule. Article 1 posits that India shall be a Union of States as specified in the First Schedule which lists Jammu and Kashmir along with Andhra Pradesh, Bihar and all the rest. No distinction in made between States and Union Territories in terms of the quality or extent of "integration" which is full and complete in each and every case.

Instrument of Accession

The Maharaja of J&K acceded to India under the standard Instrument of Accession, adapted from the 1935 Act, which was applicable to all the princely states alike. There was no special or separate dispensation with regard to Kashmir. The Instrument of Accession transferred responsibility for three items to the Union, namely, defence, foreign affairs and communications, no more. Article 370 was the mechanism written into the Indian Constitution to regulate Centre-State relations with J&K.

Article 370

Article 370 provides that "(1) notwithstanding anything in this Constitution...

(b) the power of Parliament to make laws for the State shall be limited to

(i) those matters in the Union List and the Concurrent List which, in consultation with the government of the State, are declared by the President to correspond to matters specified in the Instrument of Accession...

(ii) such other matters in the said Lists, as, with the concurrence of the government of the State, the President may by order specify.

(c) The provisions of Article 1 and of this Article shall apply in relation to that State subject to such exceptions and modifications as the President may by order specify; provided that no such order ... shall be issued except in consultation with the government of the State...

(3) ... the President may by public notification declare that this Article shall cease to be operative or shall be operative only with such exceptions and modifications and from such date as he may specify; provided that the recommendation of the Constituent Assembly of the State, referred to in Clause (2) shall be necessary before the President issues such a notification".

The meaning is quite clear. The terms of Article 370 shall not be varied in the direction either of enlarging or diminishing the Centre's jurisdiction in matters relating to J&K or abrogaging the Article altogether without the concurrence of the State. Some critics have argued that since specific mention is made of the J&K Constituent Assembly, which ceased to exist after 1956, no change could have been effected subsequently as the validating mechanism had ceased to exist. This is a mistaken view as the Constituent Assembly was succeeded by the state legislature which, further, has constituent powers under the J&K constitution.

Before examining the extent of the original ambit of Article 370 and its subsequent modifications in relation to Centre - J&K relations, it would be useful

to note certain other relevant issues.

J&K Constitution

J&K is the only State in India which has a constitution of its own. All other princely states first acceded to and then merged with the Indian Union and sent representatives to the Indian Constituent Assembly and/or freely accepted the Indian Constitution as finally adopted. There is, however, an organic nexus between the J&K and Indian Constitutions.

The Preamble to the J&K constitution, drawn up "in pursuance of the accession of this State to India", and more specifically Section 1, asserts that "the State of Jammu and Kashmir is and shall be an integral part of the Union of India". The reference is to the entire erstwhile princely state.

Section 5 provides that the executive and legislative power of the State "extends to all matters except with respect to which Parliament has power to make laws for the State under the provisions of the Constitution of India".

Section 147, pertaining to amendment of the constitution, clearly stipulates that "no bill or amendment seeking to make any change in (a) this Section; or (b) the provisions of Sections 3 and 5; or (c) the provisions of the Constitution of India as applicable in relation to the State shall be introduced or moved in either house of the legislature".

Kashmir not Uniquely Special

There are some who ask how J&K can be treated differently from any other state. The fact that J&K is different by virtue of the terms of accession has been categorically upheld by the Supreme Court. In Khazan Chand vs the State of J&K, 1984, the Court held that the State "holds a special position in the constitutional set up of our country". It went on to explain the ambit and meaning of Article 370 and the Constitution (Application to Jammu and Kashmir) Order, 1950, promulgated on January 26, 1950 in accordance with the provisions of Article 370. It was thus that "the basis for a constitutional relationship between the Union and the State was defined".

Furthermore, J&K is not the only state that enjoys a distinctive constitutional position. The Indian Constitution is extremely flexible and pragmatic and has carved out a number of territorial and non-territorial exceptions. The scheduled castes and tribes, other backward classes and minorities enjoy certain preferences. Territorially, Article 371 and Articles 371(A) to 371 (I) list special provisions pertaining to the states of Maharashtra and Gujarat, Nagaland, Assam, Manipur, Andhra Pradesh, Sikkim, Mizoram, Arunachal and Goa. Article 290A contains special provisions pertaining to Kerala and Tamil Nadu. The Fifth and Sixth Schedules also prescribe a special dispensation for certain tribal areas. The Constitution preserves unity with diversity in many ways.

Historical Prelude

The civilisational and political basis of India's connection with J&K may be better understood in the historical context. The temples of Ganpatyar in Srinagar and Khir Bhiwani, near Ganderbal, are associated with the Mahabharata. Ashoka's conquest of Kashmir introduced Buddhism into the Valley. The Kushans swept across the Karakoram in the 2nd century A.D. and took possession of Kashmir and a vast swathe of upper India. The third Buddhist Council was held in the Valley during the reign of Kanishka. The so-called Gilgit Manuscript, found at Naupur in 1837, is one of the very oldest Buddhist Pali texts extant and dates back to that period. The Shaivite influence of Shankaracharya is commemorated in the temple atop the hill that dominates Srinagar and takes his name. Lalitaditya's reign (724-761) was witness to a great Kashmiri empire that spread to Bengal and Gujarat and a flourish of art of which the Sun Temple at Martand was a supreme example.

Islam came to Kashmir from Persia and Central Asia steeped in the Sufi tradition. It was adopted by the then Buddhist ruler, Rinchen, in 1320 as a faith already embraced by many of his subjects. This was to have a profound effect on the further evolution of social and religious traditions in the Valley which saw a synthesis rather than any discontinuity or antagonism between rival faiths. The names, dress, language, food and

culture remained the same. The sufi-rishi tradition took firm root in this soil. The great sage Sheikh Nooruddin, whose dargah (destroyed by fire in 1995 but now under restoration) attracts hundreds of thousands of devotees of all faiths, was powerfully influenced by the venerated mystic, Lalleshwari or Lal Ded. This deeply rooted tradition was to lay the foundation of Kashmiriyat, a bond transcending faith.

The Amarnath yatra, that brings vast numbers of Hindu pilgrims from the far corners of India each year to ascend the perilous path to the ice-cave, is again unique. The cave was said to have been discovered by a Muslim family whose descendants informally remain its keepers.

Likewise, Buddhism and Islam co-mingled without strife or stress in Ladakh, with different members of the same family professing the two religions. It is only recently that discords have intruded into this happy interfaith communion that has been characteristic of J&K.

Conglomerate Parts

Jammu and Kashmir, as the very name suggests, is not a single, homogenous entity but a very plural political conglomerate. Its many constituents units, including those in the Northern Areas now with Pakistan, have their own political and social history, ethnic and linguistic particularities, cultural traditions, agro-climatic practices, and varied trade links as separate principalities over the centuries even when they have occasionally been incorporated in one or other empire Asokan, Kushan, Mughal, British.

In between these imperial episodes, Kashmir, Jammu and the other entities were separate or tossed between different suzerainties. Kashmir enjoyed a long spell of independence except latterly when for some 350 years it came under Afghan. Mughal, Sikh and then Dogra rule. Its more recent history starts with the detachment of Kashmir from the Sikh empire after the Anglo-Sikh wars and its sale by the British to Gulab Singh, the Dogra Governor of Jammu, for aiding the British against Ranjit Singh. That was the beginning of Dogra rule. The Dogra general, Zorawar Singh, conquered Ladakh. The British later encouraged and assisted Gulab Singh and his successors to take possession of Baltistan and the Northern Areas as part of the "Great Game", designed to hold the Russian bear beyond the Pamirs.

The four broad constituent units of J&K on the eve of independence were Jammu, Kashmir, Ladakh, Gilgit and the Frontier Illaqas. Parts of Jammu and Ladakh provinces now lie beyond the Line of Control in "Azad" Jammu and Kashmir (AJK) and the Northern Areas (NA), the latter incorporating Gilgit and the Frontier Illaqas and Skardu tehsil (western Baltistan). Pakistan has reorganised the Northern Areas and gave away the Shaksgam Valley to China in a border deal in 1963. China also appropriated the unpopulated Aksaichin plateau and adjacent areas in Ladakh between 1959 and 1962.

"Azad" Jammu and Kashmir (AJK), with its capital at Muzaffarabad, is a thin slice of territory (11,639 sq km; pop 2.58 m) encompassing part of the Jhelum and Kishenganga (Neelam) valleys. The Northern Areas (NA) originally consisted of Gilgit and the Frontier Illaqas of Hunza, Nagar, Punial, Yasin, Kuh, Ghizar, Ishkoman and Chilas, all petty chieftainships in feudatory relationship with the Maharaja of J&K. It is spread over an area of 72,495 sq kms and has an estimated population of 1.3 m (1990).

Ethno-cultural Mosaic

The ethno-geographical and geo-political breakdown of J&K is distinctive. The Line of Control, partly by accident but perhaps not altogether without design, marks a broad ethno-cultural divide. What is called Kashmir is confined to the Valley and the hills girdling it. There are few if any Kashmiris or Kashmiri-speaking people in AJK, though some do spill east into Doda. Within the Valley itself, while the Kashmiri Muslims are dominant, the Pandits had a significant presence until 1990-91 while the Gujars and Bakarwals continue to do so.

Jammu province has a strong Hindu (Dogra) presence in the Jammu-Kathua-Udhampur and Kishtwar-Badarwah region. But Rajouri and Poonch are Muslim Punjabi, Pahari and Gujar

peopled. Zanskar is Buddhist. There are also some Sikhs in both Jammu and Kashmir province. Ladakh is divided, with Leh tehsil being Buddhist and Kargil being Shia Muslim.

Linguistically, the language of Kashmir and parts of Doda is Kashmiri. Dogri, Pahari, Punjabi and Gojari are spoken in Jammu (and the Kashmir hills); Ladakhi or Bodhi (akin to Tibetan) in Leh, and Balti and Dardic dialects in Kargil.

The position across the LOC is different. The people of AJK are mostly Sunni Muslim and speak a mix of Punjabi, Pahari and Pushto. The NA exhibits Central Asian influences. Its main ethnic groups are Balti, Shin, Yashkun, Pathan, Ladakhi and Turk, and the languages they speak are Balti, Shina, Brushaski, Khawer, Wakhi, Turki, Tibeti, Pushto, Urdu and Persian. The principal Muslim denominations are Shia (55 per cent including the Sufi-Shia Nurbakshis), Sunni (15 per cent) and Ismaili (30 per cent).

This thumbnail sketch overlooks many nuances and overlaps but is broadly indicative of the ethno-diversity of J&K on either side of the LOC. This has a bearing on the "self" and the nature of the "determination" inherent in any discussion of autonomy, self-determination and azadi.

Geo-political Influences

The geo-political influences impinging on J&K are equally varied. Jammu's cultural and commercial ties with the Indian plains are close. The Buddhist population too has a strong attachment to India and some Ladakhis say they would rather identify with Tibet were this link ever severed. Leh (like Gilgit) was on an ancient trade route, an arm of the Silk Road, from Khotan and Yarkand to India. Caravans would meet here to exchange goods brought from China, Sinkiang, Tibet and Central Asia with the produce of Kashmir and their parts of Hindustan.

The vocal "Kashmiri" community in the UK is essentially Mirpuri. Depression in the 1930s led to the first recruitment of Mirpuri stevedores to the P&O line. Others followed, including many displaced without compensation by the Mangla reservoir in the 1960s. The rest of AJK has strong ties with Punjab and the Frontier Province. The Northern Areas ties are with Central Asia, though the British discouraged any great contact in that direction beyond a point.

All these many local identities loosely coalesced in certain regions, but remained distinctive and aloof in others because of physical and ethno-linguistic barriers. They generally had little in common other than involuntarily sharing a common administrative dispensation under the J&K durbar. Given half a chance, some of them were possibly in competition or, in some cases, as between Jammu, Kashmir and Ladakh, in strong rivalry. These identities in turn spawned regional and local sub-nationalisms that continue to be in play.

Any political restructuring of J&K on either side of the LOC or across it must take this reality into account. Talking of Jammu and Kashmir as one single entity is totally misplaced. Alongside these several identities is also the shadow of an Indian identity in the State on account of the ancient Hindu-Buddhist cultural and sufi-rishi link which long pre-dates accession.

Of an estimated current population of around 12 million in all of J&K, over eight million live on the Indian side and the rest across the LOC. The population of Ladkah is about 125,000, more or less evenly divided between Leh and Kargil tehsils. The population ratio as between Kashmir and Jammu would be about 60:40. AJK has about 2.5 million inhabitants and NA between 0.8 and 1.3 million.

Kashmiri Nationalism

Prior to the division of the State, Jammu was only a little less populous than Kashmir but more influential on account of Dogra rule and a certain Hindu weightage in the administration. The drawing of a ceasefire line created new jurisdictions and a new political demography following the loss of the Muslim-dominant areas of AJK and NA to Pakistan. The ending of the monarchy, the abolition of large landed estates without compensation, and the primacy of the National Conference resulted in an internal "transfer of power" from Jammu to Srinagar.

Ever since the Afghan conquest, the Kashmir

Valley had sought to reassert its independence. The rise of Kashmiri nationalism in the 1930s led to the formation of the Muslim Conference which Sheikh Abdullah shortly thereafter converted into the secular and progressive National Conference. The Sheikh's logic was that the struggle was not one of Muslim against Hindu but of the common people, whatever their faith, against the feudal tyranny of Dogra rule.

The National Conference was largely confined to the Valley and the cry of Quit Kashmir in 1946 was addressed to the Maharaja. Kashmiri nationalism was thus exclusively ranged against Dogra rule. It was Jawaharlal Nehru's friendship with and influence over the Sheikh that made Abdullah see the larger dimension of the Indian freedom struggle to which he was soon attracted. The National Conference joined the Indian States Peoples Conference in 1941, making Kashmir's nationalist struggle part of the wider Indian independence movement.

The National Conference's Naya Kashmir manifesto of 1944 also drew inspiration from the progressive economic thinking of the Congress. Abdullah was later to say that Kashmiris could be good Muslims in India and yet be partners in its democratic, secular and modernising economic development enterprise. In endorsing the Maharaja's decision to accede to India, when the tribal riders were at the gates of Srinagar, and in subsequently negotiating Article 370 and the Delhi Agreement, the Sheikh opted for autonomy or self-determination within India. He subsequently wavered on sensing certain negative trends, but returned to his original moorings after 1975.

Scope of Original Accession

Article 246, read with the Seventh Schedule, specifies the heads of Union, State and Concurrent legislation under Lists I, II and III with 97, 96 and 47 entries respectively.

The original heads covered by J&K's Instrument of Accession were nominally only three. The Sarkaria Commission on Centre-State relations, 1988, examined this and concluded that in terms of the Union List, defence covers 12 entries (defence, the armed forces, cantonments, military works, arms, defence industries, war and peace, etc.); foreign affairs has 16 entries including conferences, treaties and agreements with foreign countries, foreign jurisdiction, extradition, citizenship, passports and visas, piracy, port quarantine, foreign loans, international trade and fishing beyond territorial waters); and communications nine entries (including railways, national highways, shipping and navigation including navigation on designated inland waterways, ports, airways, posts and telegraph, wireless broadcasting and telecommunications).

Altogether these account for 37 out of 97 entries in List 1. The Sarkaria Commission, adopting American jurisprudence on the doctrine of "incidental and ancillary powers", further opined that certain other powers inhere in any federal government. Among these they enumerated currency and banking (6 entries); and matters vital for the functioning of the Union such as properties of the Union, industrial disputes concerning Union employees, the UPSC, Union pensions, parliamentary, Presidential and Vice-Presidential elections, the salaries of MPs and privileges of Parliament, the emoluments of the President and Governors, audit of Union and State accounts, and inquiries, surveys and statistics with regard to any of these (15 entries).

The Commission spelt out certain other matters which it felt had "national dimensions". These cover inter-state trade and commerce, incorporation and regulation of manufacturing, trading and other institutions which have inter-state jurisdiction, inter-state migration, census, insurance, the Survey of India, the Botanical, Zoological and Geological Surveys of India, establishing standards for weights and measures, and patents (12 entries).

Finally, the Commission referred to certain taxes like customs, excise, corporation and income tax which require uniform principles and by their very nature are best administered centrally (13 entries). The proceeds of certain of these taxes are, however, transferred by the Union to the States by way of tax-sharing or grants as determined also by the Finance Commission.

On such a reading, as many as 83 of the 97 entries in List I may be seen as legitimately within the province of the Union, of which 37 directly come under the rubric of defence, foreign affairs and communications.

The State List or List II is in any case under the exclusive jurisdiction of the States. The real bone of contention is the Concurrent List. These set out matters of common interest to both the Union and States and seem to require uniformity of principles in their application throughout the country. Here, while it is open to any State to legislate on any of the subjects listed, Union legislation, if any, enjoys supremacy.

This then is the theoretical position. What actually happened?

1950 Presidential Order

The coming into force of the Indian Constitution on January 26, 1950 made it both possible and necessary to forge a nexus between the Union and J&K on the basis of Article 370. Accordingly the President promulgated the Constitution (Application to Jammu and Kashmir) Order, 1950 in consultation with the State government specifying the heads under which Parliament would be competent to legislate for the State. Two schedules were appended, listing the entries in the Union List and those parts of the Constitution applicable to J&K respectively.

The first schedule specified 35 entries relating to the heads of defence, foreign affairs and communication plus two entries pertaining to the railways and audit which were also to be applied, though with modifications. This excluded the State and Concurrent Lists and left all residuary powers with J&K.

The second schedule set out the parts/Articles of the Constitution that would be applicable to J&K in addition to Articles I and 370.

1. Part V pertaining to the Union Executive was applied with some modifications. One of these limited the jurisdiction of the Supreme Court to appellate matters and barred the jurisdiction of the Comptroller and Auditor General.
2. Articles 80 and 81 were modified to provide that J&K's representatives in Parliament would be appointed by the President in consultation with the State.
3. Part XI dealing with Centre-State relations was made applicable with modifications and exceptions as set out in the first schedule to the Order. Article 257, concerning control of the Union over states in certain cases, was excluded. This meant that the Centre could not issue orders to J&K to comply with Union laws or directions; but there was an assurance by the State that such a contingency would not be allowed to arise.
4. In Part XII concerning financial relations, the provisions of Articles 66 and 267 regarding the consolidated fund, public accounts and the contingency fund were to be restricted to the funds and accounts of the Union.
5. The application of Part XV (elections) was limited to Presidential and Vice-Presidential elections.
6. Part XVI pertaining to special classes was limited to the only relevant category, namely, scheduled castes.
7. The official language provisions of Part XVIII were limited to the proceedings of the Supreme Court and minor modifications were made with regard to Part XIX (miscellaneous).
8. Article 365, empowering the President to declare an emergency should the State fail to comply with or give effect to directions by the Union, was not to be applied to J&K.
9. Article 368, setting out the procedure for amending the Union Constitution, was modified in relation to J&K to make consultations with and the consent of the State government mandatory as set out in Article 370.
10. Only five of the nine Schedules to the Constitution were made applicable, namely, Schedules One (listing the territories of India), Two (the emoluments of certain high dignitaries), Three (oaths), Four (allocation of Rajya Sabha seats), and Eight (official language).

Among parts of the Constitution that did not apply were Part III (Fundamental Rights), Part IV (Directive Principles), Part XIV (all-India Services), and Part XVIII (Emergency Provisions, subject to a modified application of Article 352 attracted by the Union's duty to defend states from external aggression). Some of these exceptions were intended to avoid impairing the freedom of the proposed J&K Constituent Assembly to consider these issues. Nevertheless, the 1950 Order did extend Central powers beyond those surrendered to the Union under the Instrument of Accession.

J&K went to the polls in August 1951 and the Constituent Assembly was convened in October. Early decisions were taken on the abolition of large estates without compensation, an elected Sadar-i-Riyasat to replace the hereditary ruler, and having a State flag. "Reasoned conclusions regarding accession and the future of the State" were remitted to the drafting committee.

Delhi Agreement, 1952

Some basic decisions having been taken by the Constituent Assembly, it was necessary to ensure Central concurrence. The negotiations that followed resulted in the Delhi Agreement of July 24, 1952. The major heads affirmed that

- residuary powers would vest in the State;
- under Article 5, all those domiciled in J&K would be citizens of India; but State subjects, including those who had left the State and returned thereafter, would enjoy special rights and privileges;
- Articles 52 to 62 pertaining to the President would apply to the State. So also the President's power to grant pardons and remission of sentences under Article 72;
- the State would have its own flag alongside the national flag;
- though the Sadar-i-Riyasat would be elected by the State legislature, he would be a person acceptable to the Centre and be appointed by the President;
- it was left to be determined whether the fundamental rights chapter of the Indian Constitution should apply, subject to such modifications as necessitated, for example, by the abolition of big landed estates without compensation, or whether these should be incorporated in the State's constitution;
- the Supreme Court would enjoy only appellate jurisdiction in view of the existence of the State Board of Judicial Advisers;
- with regard to the Centre's emergency powers, these were limited to defence against external aggression under Article 352 but with a proviso that in regard to internal disturbances its promulgation would be "at the request or with the concurrence of the government of the State".

Though Sheikh Abdullah was dismissed on August 8, the Delhi Agreement was endorsed both by Parliament and the J&K Constituent Assembly within the month.

1954 Presidential Order

The J&K constituent assembly continued its deliberations and, having adopted the report of its drafting committee ratifying accession to India, resolved that these matters and the Delhi Agreement be suitably incorporated in the Indian Constitution. The customs barrier between J&K and the rest of the country was removed on April 13, 1954 and the President promulgated the Constitution (Application to Jammu and Kashmir) Order on May 14, 1954.

The 1954 Order provided that the following provisions of the Indian Constitution would apply to J&K:

A. The Preamble.

B. A proviso was added to Art.3 to the effect that the area and boundaries of the State would not be altered without the consent of the State legislature.

C. Part II (citizenship) shall be deemed to have applied from January 26, 1950 with a proviso protecting migrant state subjects returning from Pakistan under a permit.

D. Part III (fundamental rights) would apply subject to such "reasonable restrictions" as the State legislature might deem reasonable.

Further, freedom of assembly, association,

movement and residence would be subject to restrictions in the interests of the security of the state.

In Art 22, preventive detention would be regulated by laws passed by the State legislature.

In Articles 31 (since deleted) and 31A, regarding protection of laws relating to compulsory acquisition of property, various provisos were to be omitted or substituted in their application to the State.

In Art 32 (constitutional remedies) the State court was empowered in addition to the Supreme Court to issue directions and writs.

E. A new Article 35A was inserted by Section 2(4)(j) of the 1954 Order saving laws defining permanent residents and their rights and privileges and, conversely, imposing upon other persons any restrictions as respects government employment, acquisition of immovable property in the State, settlement in the State and the right to scholarships and other forms of aid as the State government might provide. Further, no State law in regard to any of these matters "shall be invalid on the grounds that it is inconsistent with or takes away or abridges any right conferred on other citizens of India by any provisions of this part", that is, Art 19(1)(d) and (e). The State's laws also recognise companies as permanent residents for certain purposes.

F. Part V (the Union) was to apply with the proviso that J&K's parliamentary representation would be by Presidential appointment on the recommendation of the State legislature.

G. Part VI (the States) was virtually rendered non-applicable.

H. In Part XI (relations between the Union and the States), Art 246 was amended to limit the Union's legislative powers to Lists I and II, or the Union and Concurrent Lists, with certain modifications or exceptions. The exceptions to Union initiatives bar the CBI from exercising jurisdiction in J&K; application of Central preventive detention laws though not the Foreigner's Act; regulation of industry or mines in the public interest; film censorship; legislation pertaining to ancient monuments and archaeological sites; interstate migration in relation to J&K; and State elections in J&K.

Art. 248. Parliament was stripped of all residuary powers save that of making laws "with respect to disclaiming, questioning or disrupting the sovereignty and territorial integrity ... cession ... or secession of part of the territory of Indian from the Union or causing insult to the Indian national flag, the Indian national anthem or this Constitution".

Art. 249 (power of Parliament to legislate with respect to a matter in the State in the national interest) was omitted.

To Art. 253 (legislation for giving effect to international agreements) was added a proviso that "no decision affecting the disposition of the State of J&K shall be made by the Government of India without the consent of the government of that State".

Art. 255 (providing that no Union law shall be invalidated if duly assented to merely because some recommendation or sanction constitutionally required was not given), was omitted. Art 256, pertaining to obligations of the States and the Union, was expanded to provide that the State "shall so exercise its executive power as to facilitate the discharge by the Union of its duties and responsibilities under the Constitution in relation to that State", including acquisition or requisition of property.

I. Art. 312 in Part XIV was amended to bring J&K within the purview of the all-India services.

J. Part XVII (official language) was to be limited to the official language of the Union, for inter-state or state-Union communication and in relation to the proceedings of the Supreme Court.

K. Part XVIII (emergency provisions) was applied with modifications. Under Art. 352, no proclamation of emergency made on grounds only of internal disturbance shall have effect in J&K unless made at the request or with the concurrence of the State government.

Art. 356 was only to apply in case of a indent breakdown in the State constitution.

Art. 360 (financial emergency) was omitted.

L. Art 368 in Part XX (amendment of the Constitution), was conditioned by a new proviso that no amendment in relation to J&K would have effect unless applied by an order under Art. 370(1).

M. The Schedules were to be applied in accordance with the Delhi Agreement, with consequential modification in the Seventh Schedule (especially pertaining to the Concurrent List) and Ninth Schedule (adding J&K land reform laws to the list of protected legislation).

Further Extension of Union Powers

The J&K constitution took effect on January 26, 1957.

Over the ensuing years relations with the Union were strengthened. Financial arrangements included listing J&K among the special category states to which Union assistance takes the form of 70 and now 90 per cent grant and (30) 10 per cent loan. A State cadre of IAS and IPS officers has been created. J&K participates in the Northern Zonal Council. The jurisdiction of the CAG and the Central Election Commission were extended to the State in 1958 and 1959. So also the appellate jurisdiction of the Supreme Court (1960).

The permit system that restricted entry of Indian nationals from other parts of the country into J&K was abolished on April 1, 1959.

Some 43 constitution (Application to J&K) Orders have been issued since 1954 incorporating these and other changes, many of them of a routine nature. Following the Moe-e-maqqadus agitation in the Valley in 1964, a Presidential order extended Articles 356 and 357 to J&K. A year later, the State enacted legislation changing the title Sadar-i-Riyasat to Governor and that of Wazir-e-Azam to Chief Minister. The Governor would no longer be elected but would be appointed by the President as in all other states. The appointment and tenure of Judges of the High Court were similarly brought on par with that prevailing in all other High Courts in the country. The form of oath was also amended to include an affirmation to "uphold the sovereignty and integrity of India".

A significant change made in 1985 restored the Union's residuary powers under Article 248 and entry 97 of the Union List. This enabled extension of TADA to J&K.

In 1985, again, Art. 339 and 342 were made applicable with modifications enabling the President to appoint a commission to report on the welfare of SCs and list the tribes to be included as STs within the State. This followed the Gujjar demand to be declared a tribal people.

In 1986, Art. 249 was made applicable whereunder the Rajya Sabha may by a two-thirds majority resolve that Parliament may in the national interest make laws listed in the State List.

In 1989, the tenth schedule pertaining to the defection law was made applicable to J&K. Art 356 was amended more than once to extend President's rule in J&K beyond the stipulated maximum of two years.

Application of Union Laws

A number of Union laws have been made applicable to J&K over the years. Most of these are quite innocuous in terms of State autonomy and a commission set up by Sheikh Abdullah in 1975 did not find them objectionable up to that time.

These laws were, illustratively, in relation to opium; press and registration of books; negotiable instruments; trade unions; pledging of child labour; the Reserve Bank of India; payment of wages; agriculture produce (grading and marking); insurance; employers' liability; motor vehicles; drugs & cosmetics; industrial disputes; coal mines labour welfare; minimum wages; the dentist's act; NCC; employees state insurance; banking companies; chartered accountants; the Indian Standards Institution (certification marks); the Cinematograph Act (limited application); commissions of inquiry; forward contracts; working journalist's (conditions of service); citizenship; companies; the UGC; LIC; life insurance (emergency provisions); standards of weights and measures; Indian Medical Council; suppression of immoral traffic in women; copyright; ancient monuments and archaeological

sites and remains; employment exchange (compulsory notification of vacancies); rice milling industry (regulation); trade and merchandise marks; the Haj Committee; advocates; air (prevention of pollution); narcotic drugs and psychotropic substances; destructive insects and pests; the Indian Red Cross; armed forces (special powers); TADA; and all-India services.

1975 Accord

The original jurisdiction over J&K as vested in the Centre under the Instrument of Accession was confined to the three heads of defence, foreign affairs and communications. It was gradually extended through the mechanism of Article 370. Some felt that Central jurisdiction was enlarged by undemocratically elected J&K Governments or through the arbitrary exercise of the Governor's power to erode the State's autonomy. This was Abdullah's own position prior to his restoration in 1975.

The six-point accord the Sheikh negotiated with Indira Gandhi in February 1975

1. Reaffirmed Article 370;
2. Vested residuary powers in the State, with Parliament remaining empowered to make laws to protect the sovereignty and integrity of India;
3. Stipulated that any Indian constitutional provisions applied to the State with modifications might be altered or repealed on merits if so requested; however, those provisions already applied without modification would be unalterable;
4. Provided that given the State's right to legislate on welfare, culture, personal laws and legal procedures, it would be entitled to review and propose amendments to or repeal of laws made by Parliament or extended to the State after 1953 in matters relating to the Concurrent List; further, the State would be consulted with regard to extension of such Central laws to it in the future;
5. Required the President's assent for any State legislation or constitutional amendment impinging on the appointment, powers and immunities of the Governor; the superintendence, direction and control of elections by the Central Election Commission; eligibility for inclusion in the electoral rolls without discrimination, adult suffrage and the composition of the legislative council; and
6. Disagreed on restoring the nomenclatures Sadar-i-Riyasat and Wazir-e-Azam. The matter was remitted back to the principals, viz. Sheikh Abdullah and Mrs Gandhi.

The proposed review had been entrusted to Mirza Afzal Beg and G. Parthasarathy. The Sheikh reportedly found little to retract, especially in respect of welfare laws, though Beg would have preferred to press for certain modifications. Indira Gandhi would not countenance the usage of Sadar-i-Riyasat but was agreeable to restoration of the term Wazir-e-Azam through an appropriate amendment to the J&K constitution.

Issues in Contention

The question now before the State Autonomy Commission is what if any provisions of the Constitution of India to roll back or specific Central laws to rescind in order to "restore autonomy"? Much can be listed as "infringing" autonomy or threatening national integration. Some of these have little substance but are nevertheless of emotional significance, such as the nomenclatures given to the Governor and Chief Minister and symbols like the State flag.

The major issues in contention for Kashmiris are probably Article 356 and other emergency laws; the role and powers of the Governor; the Central services; the jurisdiction of the Supreme Court, Election Commission and CAG; restoration to the State of Concurrent and residuary powers (Art. 248); and Art. 249 which empowers Parliament to legislate with respect to a State subject in the national interest. As against this, the financial dependence of the State on the Centre and the importance of the Indian market for J&K in every respect suggests the necessity of Central assistance and support, not least in matters of inter-state trade and commerce, including investment and tourism.

Critics of Article 370, on the other hand, are

uncomfortable with the "protection" given to State subjects and the "discrimination" this entails against other Indians.

Some of the protective barriers, as with regard to the ban on purchase of property by non-state subjects, are essentially aimed at safeguarding the interests of a relatively less advanced State and preventing affluent Indians from outside the State purchasing prime real estate. Time could be a solvent in respect of some of these matters. Himachal has a similar bar on transfer of property to outsiders. Tribal lands too cannot be alienated anywhere in India.

Many provisions of the Indian Constitution do not formally apply to the State as they are incorporated in the State's own constitution and vice versa. Some provisions of the J&K constitution are perhaps in advance of the Indian Constitution. The J&K land reforms have for instance been far more radical and successful, at least in the Valley, than in the rest of the country because the State is empowered to acquire large estates without payment of compensation. The rights of women and children are likewise more strongly enunciated in the J&K constitution and every permanent resident is entitled to free education up to the university level. The J&K constitution extends the fundamental rights written into the Indian Constitution to all State subjects and reproduces many of the Directive Principles from the latter.

What difference does any of this really make? The Indian Penal Code does not apply to J&K but its Ranbir Penal Code is a close copy of the former. Does that make for more or less autonomy or integration? Some in Kashmir might feel that the jurisdiction of the Supreme Court, Election Commission, CAG, and even the all-India services are an imposition. But others privately confess that some or all of these institutions are in the best democratic interests of the State. The wise course would be to let the people of the State decide, try out their own alternatives and then determine which option finally to adopt. Greater autonomy could promote integration. Long back, Sheikh Abdullah said Kashmir wanted freedom before accession. That remains a good recipe.

Autonomy Committee

In 1995, Mr Narasimha Rao announced that the Union Government would be prepared to consider autonomy "short of independence" for J&K. Welcoming this on behalf of the National Conference, Dr Farooq Abdullah asked the Union government to issue an order under Article 370(1)(d) to restore the State's autonomy in terms of the Delhi Agreement of 1952. When this did not happen the National Conference boycotted the parliamentary poll. In 1996, Mr Deva Gowda, as Prime Minister, offered J&K "maximum autonomy" which persuaded Dr Abduallh to participate in the Assembly elections. His demand was to go back to 1952.

Following his resumption of office as Chief Minister, Dr Abdullah accordingly constituted two autonomy committees in November 1996. The first was to be headed by Mr Balraj Puri and mandated to make recommendations with regard to regional autonomy "consistent with the integrity of the State and to promote better involvement and participation of people in different regions for balanced political, economic, educational, social and cultural development, evolving of instrumentalities like local organs of power at all levels". It was also to examine what changes, if any, are required in the State constitution.

The second committee under Mr Mohiuddin Shah, PWD Minister, but originally headed by Dr Karan Singh, (until his resignation in August 1997), was asked "to examine and recommend measures for the restoration of autonomy ... consistent with the Instrument of Accession, the Constitution Application Order, 1950, and the Delhi Agreement". It was further asked "to recommend safeguards for incorporation in the Union/State Constitution to ensure that the constitutional arrangement finally evolved ... is inviolable". The committee is also required to recommend measures "to ensure a harmonious relationship for the future between the State and the Union".

The Delhi Agreement was implemented partly through enactment of the State constitution and partly through the 1954 Presidential Order. Both followed Sheikh Abdullah's dismissal and

detention. But in 1975 the Sheikh agreed that "provisions (of the Indian constitution) already applied without modification are unalterable".

In addition to such constitutional issues, there are certain powers that the Centre has assumed through administrative and planning processes and its financial and regulatory powers. Licensing of industries, foreign exchange and import-export controls, Plan approvals, matching grants and matters such as determination of royalties and allocation of small savings have resulted in some erosion of States' rights. This is not peculiar to J&K but has been a grievance that all States share. Some of these matters have been dealt with by the Finance Commission and Planning Commission but all the outcomes are seen as products of Central discretion.

Many of these issues have been agitated by the States generally and the Sarkaria Commission dealt with some of them. They concern federal relations as a whole and are not an exclusive J&K concern. Some of these constraints have eased or altogether disappeared with de-regulation, liberalisation and privatisation. The States do now enjoy a growing measure of economic initiative and are beginning of exercise these new-found rights. Directly negotiating foreign investment is certainly one new trend.

Responding to a questionnaire issued by the Sarkaria Commission, the J&K Government did indeed make a number of submissions on Centre-State relations. It favoured greater State control over the all-India services and maintained that the Inter-State Council would better serve the purpose of reducing frictions and eliminating misunderstandings between the Centre and States. It expressed reservations about the "overbearing" role of the Planning Commission and the Centre's excessive dependence on the concept of public interest to bring large areas of industry under the Union.

Pushing autonomy beyond a point can, however, prove financially unviable for smaller and less developed States and those confronted by the difficulties imposed by a mountainous terrain and harsh climatic conditions. J&K is even now financially a special category State and will continue to be heavily dependent on the Centre for infrastructure development over far-flung areas.

J&K can, however, make a claim on the Centre in one respect. The Indus Treaty, signed in 1960, was dictated by national interest. This allocated the waters of the three eastern rivers to India (essentially to Punjab, Haryana, Rajasthan and Delhi, with only a modicum of potential benefit to J&K), in lieu of the apportionment of the three western rivers to Pakistan, curtailing J&K's rights on the upper Chenab, Jhelum and Indus for purposes of even non-consumptive hydro-electric storage and diversions within these basins. Central assistance in developing the hydro potential and storages permissible under the Treaty would be appropriate recompense.

The issues in contention have been listed. Nothing is lost by viewing these demands with sympathy, as the essential problem is more a crisis of confidence than anything else. Once people in J&K know that autonomy under several heads is being repatriated, local and regional opinion might well favour continuation of many aspects of the existing dispensation. Even otherwise, J&K is constitutionally different and there need be no excessive fear of a domino effect on the rest of the country.

Suggestions for Action

Nevertheless, the State's Autonomy Committee is charged with "restoring autonomy". How far should one go? The mandate is to act consistently with the Instrument of Accession, the 1950 Constitution Application Order and the Delhi Agreement, 1952. The 1950 Order went beyond the bare Instrument of Accession. The Delhi Agreement in turn left over the question of fundamental rights and financial arrangements for detailed examination. The 1954 Constitution Application Order accordingly went beyond the Delhi Agreement on the basis of the views and recommendations of the State's Constituent Assembly. The fact that this Order has been in operation for 43 years and no great objection to it was articulated on a review under the 1975 Agreement carries a certain message. Nevertheless,

there is no reason why certain adjustments cannot be contemplated.

The principle of the State legislature selecting the Sadar-i-Riyasat or Governor, by whatever nomenclature, can be restored if the President were to submit a name which the legislature might endorse. The President could then appoint the "Governor that is Sadar-i-Riyasat" (on the analogy of "India that is Bharat") and the latter would hold office at his pleasure.

The jurisdiction of the Supreme Court, the Central Election Commission and the Comptroller and Auditor-General should present little difficulty. Since the Court's jurisdiction in any case extends to fundamental rights, matters listed under Article 131 and implicitly all other heads in respect of which the Union's authority has been accepted, it would be both logical and convenient to extend it to all other matters.

The impartiality of the CEC has come to be respected in J&K, despite certain past electoral aberrations. Even so, if necessary, power may be taken under Article 324(4) to appoint a Regional Election Commissioner to assist the CEC in the conduct of elections in J&K. This appointment could be made by the President on the recommendation of the State Government Legislature prior to each election.

Since the Union government has been generous in devolving funds on J&K as a special category State, it is only appropriate that the CAG continue to perform his duties and exercise his powers as heretofore. The reports of the CAG relating to the accounts of each State are in any case presented to the Governor and laid before the legislature under Article 151.

Part XIV of the Constitution pertaining to services under the Union and the States did not initially apply to J&K. But the provisions of Article 312 relating to all-India services were extended in 1958. Under the scheme, entry is both by direct examination and selection by the UPSC of promotees from the State civil service. In most States the promotee quota has been around 33 per cent; in the case of J&K this has been 50 per cent.

The bulk of direct recruits to the all-India services come from just about a dozen colleges/ universities in India. There is every reason to expect that, as elsewhere, with improvements in the quality of education in J&K the number of direct recruits from the State will increase if the years ahead. Even otherwise, consideration may be given to increasing the J&K selection quota on merit for a period of years and perhaps also making available a J&K quota in certain other Central services and in the public sector. This may be considered in view of the disruption of education in the State over the past decade on account of disturbed conditions.

The misuse of Article 356 is a matter that has caused widespread concern in all States. The matter is being considered by the Inter-State Council and some agreed modifications and safeguards might emerge. The J&K legislature may also be invited to recommend any safeguards for consideration. Correspondingly, or otherwise, this may be done via the State constitution by suitably amending Section 92 which deals with a breakdown of the constitutional machinery.

Regional Factors

One ticklish problem is that Jammu and Ladakh might prefer less "autonomy" and more "integration" at one level and more regional autonomy from Kashmir at another.

Regional rivalries have long been evident in J&K, not surprisingly in view of the divergent histories and socio-cultural backgrounds of the territories in question. The Glancy Commission was appointed by the Maharaja in 1931 to address regional and communal imbalances in the State. It recommended that all State service appointments should be advertised and steps taken to ensure fair representation for all communities. At the district level, appointments should go to local people.

The regional and political balance changed after 1947. Following the 1962 conflict with China, a Ladakh Development Commission was set up but proved ineffective. The Buddhist Action Committee sought scheduled tribe status for Ladakhis, teaching through the Bodhi medium in high schools and Ladakhi representation in the State ministry at cabinet level.

Subsequent discontents in Jammu in particular

resulted in the appointment of the Gajendragadkar Commission in 1967 to look into regional disparities. It recommended the establishment of statutory development boards for Jammu, Kashmir and Ladakh respectively and, detecting a sense of political neglect in Jammu and Ladakh, urged the Government to take steps to counter such sentiments. It proposed an equable sharing of resources regionally so as to convey a feeling of equal participation in the integrated development of the State".

The Commission favoured equal cabinet representation for Jammu and Kashmir and suggested that if the Chief Minister was from one region the Deputy Chief Minister should be drawn from the other. The State administration's unwillingness to accept or implement the recommendations led to further agitation which compelled the Government to appoint the Sikri Commission in 1978. But before that Sheikh Abdullah had convened a convention that proposed a five-tier federal structure for J&K from the gram sabha through the block samiti and zila parishad to regional councils for the three provinces, and the State government at the apex.

The Sikri Commission reported in 1980. It recommended establishment of a State development board with some MLAs under the Chief Minister, a new formula for regional financial allocations based on population, area, natural resource endowments and relative stage of development. It did not favour reservation in government services on the basis of community, caste or district. The report was again largely disregarded. In 1986, Dr Farooq Abdullah appointed Balraj Puri to head a new regional autonomy committee but did not persevere with this commitment after the 1987 elections.

As resentment in Jammu simmered, an all-party Action Committee was set up in Ladakh in 1980 to demand regional autonomy. The State government responded by appointing a ministerial subcommittee. This proved infructuous and the Ladakhis did not believe that the earlier established Ministry of Ladakh Affairs in Srinagar would be able to accomplish anything. Ladakhi representatives, subsequently, met the Prime Minister, Indira Gandhi, to press for regional autonomy, tribal status for the Buddhists, a parliamentary seat for Leh and greater representation in the State assembly.

A parallel Kargil Action Committee, set up as a counter, in turn sought provincial status for the two districts of Ladakh, namely, Kargil and Leh. The State government cited divided counsels for inaction. Scheduled tribe status for all Ladakhis was however conceded, though not for the Arguns, a small community of some 600 Sunni Kashmiri trading families long settled in Ladakh. They were born of mixed marriages between these Kashmiri traders and local Ladakhi women. Their exclusion has potential for misunderstanding though the Ladakh Buddhist Association sees the Arguns as exploiters.

The criteria for notifying a community as a scheduled tribe are that it is primitive, isolated, shy of mixing with other cultures, and is very backward. Ladakhis were notified as STs on an area basis. The Arguns are indeed backward but mostly live in Leh with a few families in Kargil.

The Ladakh Autonomous Hill Development Council Act was adopted in 1995. Leh accepted the offer and accordingly the Leh Autonomous Hill Development Council came into being in September of that year. Kargil declined but has the option to change its mind. Both would be sub-units of the Ladakh AHDC which is designated the apex, coordinating body. The councils have development functions and can raise local revenues but have no police powers. The fact that the Leh Hill Council is controlled by the Congress while the Ladakh Affairs Minister is from the National Conference has been a source of tension.

Sub-regional Identities

There has been an emergence of sub-regional identities, too, related to geo-political, religious and linguistic factors. The Buddhists of Leh and the Shia Muslims of Kargil have been caught up in rivalry. Citing discrimination by the district majority and being cut off from the rest of the region for more than half the year by impassable mountain barriers, the Zanskar Buddhist Council has demanded a separate hill council within

Kargil district.

The Gujjars account for around 8 to 9 per cent of the State's population, though they claim double that number. They were granted tribal status by the Chandrashekhar Government in 1991, soon after this was conceded to the Ladakhis. This has stimulated the growth of a Pahari identity in parts of Doda, Rajouri and Poonch. Emulating the Gujjar and Bakarwal Welfare Board established in 1975 and the impetus given to education within the community as a consequence, a Pahari Board, embracing a somewhat wider ambit, is now seeking scheduled tribe status for this community. This appears problematic as the Paharis include Rajputs, Brahmins and other relatively advanced communities. The Paharis, however, emphasise the backward area criterion.

The Kashmiri Pandits, who have a distinct identity, were largely forced out of the Valley in 1990 by Islamist militant groups who had little use for Kashmiriyat. Some 49,000 families are registered in migrant camps in Jammu, Delhi and elsewhere, which makes a total population of around 200,000. Some of the more embittered among them have advocated a homeland within the Valley, Panun Kashmir. Most Kashmiri Muslims, however, want them back in their midst and a section may have been emboldened to return to their former homes but for the Sangampora massacre in March 1997 of some Pandits who had preferred to remain in the Valley.

The Government was earlier reportedly working on a Rs 2800 crore employment and rehabilitation package to bring the Pandits back with honour and dignity and restore their livelihoods. A ban has been imposed on the sale of immigrant property and a stay ordered on suits for recovery of dues from them by banks and financial institutions. The appointment of a protector-general of migrant property has been proposed along with the establishment of three self-contained transit settlements for returning migrants in Srinagar, Anantnag and Baramulla. Further targetted killings of isolated Hindu families at Wandhama in the Valley and Parankote in Udhampur district in early 1998 have understandably engendered new fears.

Panun Kashmir, however, is a flawed and unrealisable concept. Creating communal enclaves in the Valley, possibly necessitating the ouster of innocent majority community residents to effect a population exchange, howsoever unintended, cannot be a solution. The answer more probably lies in the creation of small industrial townships in the Valley where returning migrants and others could be rehabilitated and given employment after due training.

Jammu and Srinagar are the winter and summer capitals of the State and the government or durbar shuttles between them. This is time-consuming and wasteful though it has been a convention since 1870, provides a seasonal stimulus to the local economy and is possibly also a symbolic bond between the Jammu and Kashmir regions. In October 1987, Farooq Abdullah cancelled the durbar move from Srinagar which provoked a storm of protest in Jammu. The order had to be rescinded within weeks to end Jammu's sense of deprivation.

Jammu nurses other grievances: discriminatory delimitation of constituencies that gives it fewer seats and larger constituencies than is the case in Kashmir; skewed personnel policies that place it at a disadvantage in the administration; the location of a disproportionately small number of State level institutions; and a lesser range and volume of incentives. Another grudge has been the refusal to create more districts in the region.

In 1972, the Kadri Commission turned down the demand for the creation of new districts in either Jammu or Kashmir provinces. Nevertheless, in 1979, the State government carved out three new districts in Kashmir, namely, Badgam, Pulwama and Kupwara, and Kargil district in Ladakh. Jammu opinion was outraged. To assuage feelings, the government appointed the Wazir Commission to review the matter. This reported in 1984 favouring the creation of Kishtwar, Samba and Reasi districts in Jammu and another district, Bandipur, in the Valley. The recommendations were ignored.

What comes through quite clearly is that inter-regional and even intra-regional rivalries and sentiments will need to be kept in mind in any

consideration of autonomy for J&K. Sub-regional identities too have also perhaps begun to cloud regional demands. In Ladakh, the fact that the Leh Hill Council has preceded the Ladakh Autonomous Hill Development Council has created a gulf between Ladakh and Kargil that remains to be bridged.

Likewise, the rise of Gujjar, Pahari, Doda and Kargil identities and the Zanskari Buddhist sub-identity within Kargil could give rise to a revival of the Greater Kashmir idea which would bring together all contiguous Muslim-majority areas around the Valley. Any such move could swamp the Valley's Kashmiriyat tradition in a larger Muslim identity and convert Jammu into a primarily Dogra entity.

Panchayati Structure

Such a development would be unfortunate and could perhaps be avoided were sub-regional identities enabled to find expression in panchayati raj. J&K amended its panchayat law in 1989, three years before the enactment of the 73rd and 74th Amendments which in any case only provided a model for the States to adopt. The panchayati raj law in J&K envisages a three-tier structure with direct elections confined to the halqa or basic village-cluster units. The block development councils and district planning and development boards are to be indirectly elected and will have a nominated element. The district board chairman will be nominated by the Government, and the block development officer and village level worker will, ex-officio, be member secretaries at the two lower levels. The members of the panchayat adalat are also to be nominated by the Government.

Women will enjoy one third reservation through nomination by the Government to the extent of any deficit in their representation through the electoral process. Unlike elsewhere, there is no provision for a State finance commission, enfeebling the panchayati bodies financially and making them dependent on governmental largesse. The list of transferred subjects too is limited. Finally, these institutions may be superseded by the Government but there is a mandatory requirement to hold fresh elections within six months.

Panchayati polls were mooted in the autumn of 1998 after the harvest. But Sheikh Abdullah's earlier vision of a five-tier federal continuum in J&K as a means of devolution and participatory governance would appear to have been diluted. This is a pity as meaningful devolution in accordance with the Union 73rd and 74th Amendments, if extended to J&K, could provide useful building blocks for dealing with regional and sub-regional identities and aspirations.

The State government would do well to upgrade the panchayat structure through suitable amendments, including empowering the halqa sabhas; mandating one third electoral reservation for women; subjecting supercession to endorsement by a high-level, impartial advisory committee; and making the district planning and development boards also elective rather than nominated bodies. Such reforms would fulfil the stated purpose of the Act which is to make panchayati raj "an instrument of vigorous local self government to secure the effective participation of the people...".

Entrustment Through Articles 258/258A

Regional differences on the degree of extension or rolling back of Union laws and heads of intervention as between Jammu and Ladakh on the one hand and Kashmir on the other could pose delicate problems. The Constitution of India does, however, have a mechanism that could perhaps be used to overcome such differential political equations. This is Art. 258 and 258A.

Article 258 provides that the President may, with the consent of a State, entrust to that State government conditionally or unconditionally functions in relation to any matter to which the executive power of the Union extends. The related administrative and financial costs will also be defrayed by the Union in any such case. Conversely, Article 258A provides that the Governor of a State may, with the consent of the Government of India, entrust either conditionally or unconditionally to the Union functions in relation to any matter to which the exclusive power of the State extends.

This constitutional power of entrustment from Centre to State and vice versa has probably never

been used thus far. It could enable the Centre to devolve greater autonomy specifically to Kashmir, not necessarily by process of constitutional amendment but by entrustment, while at the same time permitting the J&K government to entrust certain State functions to the Centre in relation specifically to Jammu and Ladakh. Given the consent of the Centre, the States and the regions concerned, one could presumably structure differential levels of "autonomy", "accession" or "integration". These differentials could be fine-tuned in the light of experience and emerging circumstances in a more flexible and less cumbersome manner than would be the case were constitutional amendments with a two-thirds majority necessary every time.

Article 258(2) also provides that "a law made by Parliament which applies to a state may, notwithstanding that it relates to a matter with respect to which the legislature of the state has no power make laws, confer powers and impose duties, or authorise the conferring of powers and imposition of duties, upon the state or officers and authorities thereof". These provisions must be read with Art. 154(2)(b) which in relation to the executive powers of a State "prevent Parliament or the legislature of the state from conferring by law functions on any authority subordinate to the Governor".

Discussing the scope and ambit of Article 258, the Sarkaria Commission argued that it "provides a tool by the liberal use of which cooperative federalism can be substantially realised in the working of the system. We therefore recommend a more extensive and generous use of this tool ... for progressive decentralisation of powers to the Governments of the states/and or their officers and authorities". The creative use of Articles 258 and 258A seems capable of even wider application in deconstructing and restructuring Centre-State and regional relationships in J&K.

Karbi Anglong/NC Hills Autonomy Model

The entrustment mechanism has been used, particularly in the Northeast, to enable States to transfer certain powers to autonomous district councils in fulfillment of demands for regional autonomy. There has been a growing accretion of entrusted powers over the years and the Karbi Anglong and North Cachar Autonomous Councils in Assam now represent the most advanced form of regional autonomy in the country. Under a MOU signed in 1995 these two autonomous councils are now entrusted with 44 heads in respect of which the executive power of the State government has been statutorily delegated to them. Additionally these Autonomous Councils may enact legislation on matters falling within the Concurrent List of the Constitution (List III) with the proviso that such laws shall be reserved for the consideration and approval of the President.

The Sixth Schedule is also to be amended to enable the Governor of Assam to exercise discretionary powers in respect of subjects entrusted to these Councils instead of mandating him to act on the advice of his council of ministers. While law and order remains a State responsibility, a mechanism is to be evolved for consultation with the Chief Executive Member of the Councils regarding the posting of senior police and civil officers up to the rank of SP and DC and the writing of their confidential reports.

Officers of the Councils are also to be included in State delegations sent to discuss finalisation of the annual plans with the Planning Commission. The feasibility of separately mentioning the funds meant for the Councils in releases made by the Union government are to be examined and suitable mechanisms evolved to monitor the adequacy and promptitude of State government releases of such funds. The State government will before the commencement of each financial year indicate to the Councils the overall financial allocations that they might expect. Each Council will thereafter prepare and pass its own budget and forward it to the State government for inclusion in the overall State budget. The Councils will be consulted and provided an explanation in the event of any change.

The Karbi Anglong and NC Hills Autonomous Council model is still getting into gear, but if offers an illustration of the innovative manner in which federal and sub-federal relations can be structured.

Implementing the Autonomy Package

It is unfortunate that the two Autonomy Committees were not set up sooner and have not worked more expeditiously. Delay could entail loss of political credibility and queer the pitch. However, both Committees are expected to submit their reports to the State Government within the next few months.

It would be desirable to elicit public opinion on the recommendations contained in the two reports. This would be best done by laying them on the Table of the Assembly and publishing them for wide distribution in the major State languages. Debate should be encouraged and all political parties and sections of the people should be invited to proffer their views. None, not even the Hurriyat, should be excluded from this interactive exchange. The State government should then make such amendments as may be necessary before initiating negotiations with the Centre for a final determination and settlement of the Centre-State package on the basis of a broad consensus both within the State and nationally.

The regional autonomy package could in turn build upwards on the panchayati raj structure which would be a good way to mediate between sub-regional and regional aspirations and accommodate both without injury to either. The consensus reached here would need to be incorporated in the J&K constitution.

Two of the terms of reference of the Centre-State Autonomy Committee merit emphasis. The first is to keep in mind the need to maintain "harmonious" relations with the Centre. The other is to ensure the "inviolability" of the final settlement. The former suggests a relationship of mutual trust and cooperation; the latter would require constitutional entrenchment of the agreement so that there can be no reneging on it - either way. This could be done by a mutual declaration embodied in a new Article that specifies the agreement as part of the unamendable basic structure of the Indian Constitution.

The Centre should, meanwhile, elicit opinion within the national parties and consult the Inter-State Council and, may be, the National Integration Council in order to secure a wider consensus. The views of all interests and sections of opinion should be fully taken into consideration. Apprehensions that discussion on autonomy for J&K, let alone its actual implementation, will have a domino effect in other parts of India are exaggerated. An educative debate will help remove many misunderstandings and defuse possible tensions that could otherwise develop in the future.

Setting a four to six month timetable for such a consultative process would be appropriate. The matter has some urgency and a crisp schedule or deadline would help concentrate the mind.

The procedure for actual implementation of the final formulation might take many forms. Some adjustments may be made through administrative decisions. Others might require constitutional amendments both of the Union and J&K Constitutions. However, a constitutional amendment may not be necessary in all cases as a Presidential order can be issued as in the past in terms of Article 370(1)(d). Other changes may be brought about through the entrustment mechanism under Articles 258 and 258A; or even through a Rajya Sabha resolution under Article 249, where appropriate, or as a bridging mechanism, but again only with the concurrence of the State.

The Other Side of the Hill

No consideration of the future of J&K will be complete without reference to the constitutional status of "Azad" Jammu and Kashmir (AJK) and the Northern Areas (NA) that are under the control of Pakistan.

Following the tribal invasion of the Maharaja's dominion, the Muslim Conference announced the formation of an Azad J&K Provisional government under Sardar Ibrahim Khan on October 24, 1997 with its headquarters at Pallandri in Poonch. It claimed jurisdiction over all of J&K. There was no question of accession. Separately, on October 28, the Gilgit Scouts led by an Englishman, Major Brown, staged a coup and arrested the Dogra governor of the Gilgit Wazarat, Brig. Ghansara Singh. On November 2, the Pakistan flag was hoisted over Gilgit and on the following day the NA administration was handed over to the

provisional AJK government. Pakistan flew in a representative to Gilgit on November 14 and the feudatory Chiefs of Hunza and Nagar thereafter "acceded" to Pakistan, something quite beyond their power.

On April 28, 1949 a tripartite agreement was concluded between the Government of Pakistan, the President of AJK and the President of the AJK Muslim Conference in Karachi defining their respective areas of jurisdiction in AJK. Pakistan took over defence, foreign affairs, publicity, relations with the UNCIP, refugee rehabilitation, plebiscite arrangements, civil supplies, etc. It was also temporarily handed over or took complete control of NA affairs as the AJK government pleaded its inability immediately to administer and police that far – flung region.

The Northern Areas have ever since been totally controlled by the Government of Pakistan. In March 1963, Pakistan ceded the Shaksgam Valley, across the Karakoram, to China.

Pakistan's first constitution of 1956 defined the constitutional link between itself and AJK/NA. Article 203 stated that "when the people of the state of J&K decide to accede to Pakistan, the relationship between Pakistan and the said state shall be determined in accordance with the wishes of the people". That constitution was soon abrogated but subsequent constitutions, including Article 257 of the current 1973 Pakistan constitution, adopted similar language.

"Azad" Jammu and Kashmir

AJK originally had no constitution of its own and was from 1948 administered by the Azad Kashmir Government rules of business. These were revised in 1950. In 1960, limited franchise was introduced under the AJK basic democracies act. The electoral college included the basic democrats, J&K refugees and the J&K diaspora in Pakistan. An executive council was set up. But the President and ministers were nominated by the Pakistan government. The power behind the throne was the Minister for Kashmir Affairs in Karachi/Islamabad. Earlier, in 1958, the rules had been changed to vest authority in a chief adviser appointed by the Government of Pakistan and ultimately responsible to the Minister for Kashmir Affairs.

The AJK Government Acts of 1964 and 1968 were followed by another amendment in 1970 which introduced adult suffrage, direct elections to a 25-member legislative assembly with proportionate representation for AJK refugees living in Pakistan, and the presidential system.

The parliamentary system was restored with the AJK Interim Constitution Act, 1974. The constitution states that "in the discharge of its responsibilities under the UNCIP resolutions, the government of Pakistan has approved of the proposed repeal and re-enactment of the said AJK government Act, 1970, and authorised the President of AJK to introduce the present Bill in the legislative assembly of AJK..."

The AJK constitution stipulates that Islam shall be the state religion.

Fundamental rights "shall not apply to any law relating to the ... defence services or ... forces charged with the maintenance of public order...".

Freedom of association is subject to the proviso that "no person or political party in AJK shall be permitted to propagate against or take part in activities prejudicial or detrimental to the ideology of the State's accession to Pakistan". This obviously also curtails freedom of expression. Freedom of speech is made subject to "any reasonable restrictions imposed by law in the interest of the security of AJK, friendly relations with Pakistan, public order...".

The oath prescribed for official functionaries and legislators enjoins "loyalty to the country and the cause of accession of the state of J&K to Pakistan".

Joint sittings of the assembly require the presence of the Federal Minister for Kashmir Affairs and Northern Affairs and elected members of the Council.

The AJK Council

The AJK Council is chaired by the Prime Minister of Pakistan and consists of the AJK President, five members nominated by the PM of Pakistan from among Federal Ministers or MPs, the Federal Minister for Kashmir Affairs (ex-officio), the AJK Prime Minister or his nominee, and six elected

members of the AJK Assembly.

The executive authority of the Council shall be exercised directly by the Chairman or through the Council secretariat consisting of a Federal Minister and not more than three advisers appointed by the Chairman.

The AJK Assembly shall consist of 48 members directly elected. They in turn shall co-opt five women, a representative of the ulema, a J&K state subject residing abroad, and a technocrat or professional.

Both the Assembly and the Council enjoy legislative powers and may make laws for AJK and State subjects wherever they may be.

Neither body is empowered to legislate concerning "Pakistan's responsibilities under the UNCIP resolutions"; the defence and security of AJK; current coin or currency; and external affairs, foreign trade and foreign aid. The reference to "Pakistan's responsibilities under the UNCIP resolutions" is an amusing fig-leaf as those resolutions require Pakistan to vacate the State.

The AJK Council has exclusive powers to legislate with respect matters set out in the Council's legislative list. Council bills do not require the assent of the AJK President but must be authenticated by the Chairman of the Council. The Council controls the "Council consolidated fund" and must prepare and adopt a Council budget each year. The Assembly adopts a separate annual budget and controls the AJK Assembly consolidated fund.

The chief justices and justices of the AJK supreme court and high court, the chief election commissioner and the auditor-general are appointed by the President on the advice of the Council.

A proclamation of emergency shall be issued by the President if so advised by the Chairman of the Council.

The constitutional provisions cited above are indicative of the extensive budgetary, legislative and personnel powers enjoyed by the AJK Council which is chaired by the Prime Minister of Pakistan and run by a secretariat in Islamabad answerable to him.

The Council's legislative list consists of 52 entries. It includes nationality, citizenship, migration; P&T, telephones, broadcasting and other communications; public debt and borrowings; newspapers, books and printing presses; Council public service commission and Council services and pensions; administrative courts for Council subjects; professional and technical training; aviation; copyright, trademarks; banking, insurance, stock exchanges; opium; corporations; planning; highways and strategic roads; geological surveys, meteorology; works, lands and buildings in relation to Council activities; census; standard weights and measures; extension of powers and jurisdiction of any provincial police force to AJK territories with the consent of that government; railways; oil and natural gas; industries whose development under Council control is declared to be in the public interest; measures to combat certain offences concerning the Council and establishment or extension of a police force reinvestigation agency for the purpose; quarantine, population planning and social welfare; boilers and electricity; centres of excellence and standards of education; sanctioning of cinematographic films for exhibition; customs, taxes other than agricultural tax; corporate tax; certain other taxes and fees; tourism; jurisdiction and powers of all courts and offences against laws with respect to matter enumerated in the Council list; and ancilliary matters.

All other matters shall be within the legislative competence of the AJK Assembly.

Northern Areas

The old-established principalities that are now encompassed in what has since October 1947 come to be known as the Northern Areas have been merged administratively and reorganised in the five districts of Gilgit, Skardu, Diamir, Ghizer and Ghanche. They were virtually annexed by Pakistan after being taken over from "Azad" Kashmir under the tripartite Karachi Agreement of 1949.

The Northern Areas were politically and constitutionally part of the Maharaja's kingdom as mentioned in Aitchison's "Treaties, Engagements and Sanads" and other British records and were

recognised as such by the United Nations. Pakistan has at various times sought to maintain that the NA was never part of J&K but has been unable to sustain this fiction. In 1963, it unilaterally bartered away the Shaksgam Valley to China as part of a boundary settlement.

Following the seizure of the Northern Areas by Pakistan in October 1947, a short-lived provisional government under Shah Rais handed over power to the Pakistan Government which designated its political resident in the NWFP as political agent to the Governor-General of Pakistan in Gilgit. The Frontier Crimes Regulation (FCR) was extended to the entire region.

In 1950, political control was removed from the NWFP Governor and handed over to the Ministry of Kashmir Affairs. A couple of years later, the Joint Secretary in that Ministry was entrusted with the responsibilities of the Resident, NA. This remote control ended in 1967 with the creation of the post of Resident NA in Gilgit. In 1971 a new political party, Tenzeem-i-Millat, demanded provincial status for the area. The ensuing agitation in due course led to the disbandment of the Gilgit Scouts which refused to fire on a crowd. It was replaced by the Chitral Scouts, an outside force. The FCR was withdrawn, jagirdars and the former feudatory chiefdoms were abolished and new districts carved out. The Tenzeem-i-Millat merged with the Peoples Party of Pakistan.

The Northern Areas, being neither part of AJK nor Pakistan, are in constitutional limbo. The people are not citizens of either entity, nor do they have any constitutional status or apparatus of self-governance of their own. They do not enjoy fundamental rights and had no representation in any assembly or parliament until Zia-ul-Haque nominated three representatives to the Majis-e-Shoora in Islamabad as observers, after martial law was lifted in the early 1980s. The observers were removed with the subsequent change in regime.

Governance by Federal KANA Ministry

The governance of NA is under the Kashmir and Northern Areas (KANA) Division of the Ministry of Kashmir Affairs in Islamabad. Until the 1995 reforms, the executive was headed by a chief commissioner who ruled through the Pakistan bureaucracy. The lower civil and criminal courts are under a judicial commissioner who is the final appellate authority but without writ jurisdiction, as no fundamental rights are applicable to the region.

The KANA Division exercises the powers of a provincial government and may extend the laws of Pakistan to the NA by notification. These laws, whether amended or applied directly, have left the people with little or no judicial redress. The Northern Areas Council has virtually no powers and is headed by the KANA Minister. Until 1993 there was no newspaper in the region; the weekly K2 has since begun publication. The area was remote and poorly developed until the opening of the Karakorum Highway to Sinkiang across the Khunjerab Pass in 1978. This brought trade and commerce but most of it controlled by outsiders, mostly Pathans. Sectarian strife has become endemic with periodic Shia-Sunni riots.

Development work has since 1982 been largely been carried out under the aegis of the Aga Khan Rural Support Programme which has earned much goodwill and respect but has lately run foul of the orthodoxy which has accused it of indulging in un-Islamic activities such as offering credit and employing female staff. Fatwas against the AKRSP have reportedly brought its activities in Skardu and Shigar valleys virtually to a standstill.

The Northern Areas earn the bulk of Pakistan's foreign tourist revenues and has gold and gemstone deposits that are being worked but need to be further explored. The grievance is that the revenues and employment generated mostly go to outsiders.

The total ambiguity of their political status led a group NA residents to petition the AJK High Court in 1990. The plea taken was that the NA is an integral part of J&K and therefore of AJK as well and should accordingly be brought administratively and politically under "Azad" Kashmir. They prayed for civil liberties and democratic rights.

Delivering its judgement in March 1993, the AJK High Court pronounced in favour of the

petitioners and ordered the defendants, namely, the Governments of Pakistan and AJK respectively, to transfer and receive jurisdiction over the Northern Areas. While the AJK Government under Abdul Qayyum Khan was delighted with the judgement, the Pakistan Government appealed to the AJK Supreme Court. This ruled in September 1994 that the Northern Areas were indeed part of J&K but were not administratively part of "Azad" Kashmir when the Interim AJK Constitution was promulgated in 1974. Hence the AJK High Court had no jurisdiction and its order was accordingly quashed.

Dissatisfied with this judgement, another set of petitioners went to the Lahore bench of the Supreme Court seeking full constitutional rights for the region. On April 7, 1997 the Federal Government counsel told the Court that the NA does not form part of Pakistan in terms of Article 1(2) of the constitution and its status is linked with the Kashmir issue which is under the consideration of the U.N. Extending constitutional rights to the people of the area would be tantamount to unilateral annexation of the region in violation of Pakistan's stand before international fora. The KANA Ministry, it was said, extends Federal laws to the area in the public interest "in accordance with the provisions of the UNCIP resolutions".

However, the counsel argued, the NA Council had been made more representative and the status of the judicial council had also been improved. He was referring to the so-called reform package put into effect in 1994 as a sop to NA sentiments aroused by the AJK court petition and appeal.

The 1994 reforms were introduced by an amendment of the 1975 Legal Framework Order. This increased the strength of the NA Council from 18 to 24 elected members plus two women who are nominated. The chief executive's powers are exercised by the Federal KANA Minister. An elected member of the Council enjoying majority support is deputy chief executive with the rank of minister of state, supported by three to five councillors to be appointed by the KANA Minister as advisers with the rank of provincial ministers. The Chief Commissioner has been redesignated Chief Secretary and, with four other secretaries, runs the day to day administration.

The post of judicial commissioner for NA has been abolished and a three member chief court established in its place with a retired provincial high court judge as its chairman. The Chitral Scouts are to remain for at least two more years.

Elections to the new NA Council were held in November 1994 but appear to have given little satisfaction to the local population and evoked dismay in AJK. Matters have come to a head with a former SSP of Gizr district and a resident of Gilgit, Amir Hamza, filing a petition before the Pakistan Supreme Court in the name of the Al Jihad Trust questioning the validity of Pakistan's occupation of the Northern Areas. A copy of the petition has also been sent to the UN Secretary-General.

Hamza and other youth formed the Gilgit-Baltistan Jamhoori Mahaz in the late 1960s. The Northern Areas Council was given a trial but proved hollow, leading in the 1980s to the formation of the Karakorum Students Organisation and the Baltistan Students Federation. Rising unemployment and charges of discrimination in public employment in favour of outsiders led to the formation of an Unemployed Action Committee in Gilgit which in turn spawned the Balwaristan ("land of the high mountains") National Front (BNP) by Nawaj Khan Naji and Abul Hamid Khan. This seeks self-determination for the Northern Areas and even Ladakh with whom the Baltis have much in common.

A 1993 Gilgit-Baltistan National Conference which brought together a number of larger and lesser organisations resulted in the formation of a Northern Areas United Front to give voice to a number of political demands. The 1994 reforms were deeply disappointing and triggered protest. On June 22, 1996, the Chitral Scouts opened fire on a demonstration of unemployed youth seeking enrollment in the new para-military force, the Northern Scouts. Their fear again was that locals would be crowded out by outsiders.

August 14, 1997, witnessed an anti-Pakistan "black jubilee" demonstration in Gilgit while the rest of the country was celebrating the 50th anniversary of independence. It was led by the

BNP, the Karakorum National Front (under Dr Muzaffar Relay), and the PPP (Shaheed Bhutto Group). The protest leaders were still awaiting trial well into 1998 when last reports came in. In its turn, the Muttahida Quami Party under Major Hussain Shah (retd) has from 1996 been demanding the rights of the people as enshrined in the August 13, 1948 UN Resolution, or full autonomy for the Northern Areas outside of defence, foreign affairs and communications.

Though possibly still relatively small, these organisations and fronts are gaining voice and influence and struggling to preserve their language and cultural identity.

Free elections, democratic decentralisation and wider autonomy for J&K within India could electrify both AJK and the Northern Areas.

The Indo-Pakistan Equation

There is little doubt that an internal settlement of the J&K question will have a transforming effect on the Kashmir dimension of Indo-Pakistan relations. Pakistan has always gained a handle from gross political mismanagement of the situation in Kashmir by the Indian state. The current episode stems from the culpable folly inherent in what transpired in the State between 1953 and 1975 and more particularly between 1984 and 1987. A new generation of Kashmiris, hopeful of a fresh beginning after the Abdullah restoration of 1975 and the indubitably free elections of 1977 and 1983, was made to feel that the people of J&K had once again been betrayed and robbed of their democratic rights and civil liberties.

The country is painfully emerging out of that quagmire after a period of trauma and grief. This is not sufficient. Like J&K, AJK and NA too must and can win azadi or self-determination within Pakistan. Time is running out for Pakistan. How it goes about putting its house in order is for it to determine in consultation with the people of AJK and the Northern Areas.

India must be able to live in peace and friendship with Pakistan. This is a vital necessity for people in J&K, a section of whom have also suffered emotionally and materially from the fact of a divided state, howsoever artificial that construct in some ways. There is a dispute with Pakistan over J&K and it is futile and foolish to wish away that fact. What is at issue is not the fact of the dispute but its nature. India can hold Pakistan at bay; but J&K may never be fully at peace in the absence of an enveloping Indo-Pakistan accord.

The two countries have totally divergent perceptions of the genesis of the Kashmir question and the subsequent sequence of events. Both lay claim to all of undivided J&K, India with far greater legitimacy even under the now dead UN Resolutions. Neither country is going to walk away from J&K. Yet the alternative to the prolonged impasse is not another war or more proxy warring, which would be ruinous to both sides and certainly for the people of J&K, but talks. The door to dialogue did open and the Foreign Secretaries have worked out modalities for eight working groups to meet. One of these, headed by the two Foreign Secretaries themselves, is to consider Jammu and Kashmir, while others will inter alia discuss peace and security including CBMs, Siachen and the Wular Barrage/Tulbul navigation project.

Other factors intervened to create a hiatus and relations have deteriorated with the Ghauri missile firing and the nuclear tests and some of the unfortunate and wholly avoidable rhetoric accompanying these events on either side. Even before these developments realisation had begun to dawn that with insurgency in J&K fast winding down and both sides having covert nuclear capability, mutual deterrence would preclude war and leave talks as the only viable option. Subsequent missile-nuclear developments have not essentially altered this situation and, once euphoria and flag-waving rhetoric have faded, the process of dialogue can and must be resumed. A nuclear arms race is unnecessary and must be avoided.

Realisable Fourth Option

Rather than chase a chimera and seek improbable outcomes, Indo-Pakistan discourse should more productively focus on realisable objectives based on ground realities and the changing international

environment. This would suggest accepting the status quo and then proceeding to better it for all concerned through a series of adjustments and understandings within a framework of peace and cooperation.

First and foremost, there must be an end to violence and cross-border intervention in J&K. The people on both sides of the LOC must be accorded a wide measure of autonomy that guarantees their democratic rights and promotes economic and social progress in an environment of peace and security. This will primarily remain an internal or domestic matter on either side.

Beyond this, adjustments along the Line of Control have been considered in the past. This demarcating line, which for the most part follows a broad ethno-cultural divide, could be rationalised in terms of geographical, administrative and security factors, with some give and take and safeguards for pockets of affected population.

The process could start with a resolution of the Siachen issue by following the absolutely clear and unambiguous directions of the still extant Karachi Military Agreement of 1949 delineating the cease fire line. This was drawn on large scale maps with grid references up to four decimal points and signed by the Indian and Pakistani military commands as well as by a representative of the UN Military Observer Group. It demarcated the ceasefire line up to NJ 9842, a little south of the Siachen snout extending "thence north to the glaciers". Due north has only one meaning.

Pakistan's licensing of foreign mountaineering expeditions east of this NJ 9842-north-to-the-glaciers line was bound to provoke an Indian response. Things did not improve with Pakistan, the United States and certain other Western powers publishing maps drawing the cease fire line or line of control in J&K northwest from NJ 9842 to the Karakorum Pass, possibly following old wartime delineations of air defence zone markings in this region. The Siachen issue has its origin in this gratuitous cartographic "aggression" coming on the heels of China's advancing cartographic claim lines in Ladakh after 1959.

A redrawn or adjusted Line now proposed would demarcate two distinct sovereignties in J&K, even while remaining a Line of Control, pending the putting into place of other elements by mutual consent. These would include various CBMs, agreed withdrawals from the LOC so as to avoid further military eyeball-to-eyeball confrontations, redeployment and thinning down of forces, leading to planned demilitarisation in stages. The Pandits must be enabled to return to their homes in safety and honour, a task rendered more difficult by the brutal targetted massacres of Hindus in the Valley and Udhampur in the past.

Having drawn this new Line, or even otherwise, it could be rendered porous and made a soft border admitting of easy passage to and fro through designated police/customs checkposts of State subjects belonging to either side. This could be done without the paraphernalia of formal travel documents and visas or elaborate currency controls (as between India and Nepal). Normal travel, trade, pilgrimage, tourism and student or other people to people exchanges could be facilitated to everybody's benefit.

Oversight of such arrangements would be necessary. Matters of common concern would include trade, tourism, border management and crime control, environmental cooperation and cultural and educational exchanges. The highly successful 1960 Indus Treaty allocated the water of the six rivers but did not exploit their huge energy and water storage potential in Jammu and Kashmir except to a very limited extent. This offers scope for negotiating a second phase of the Indus Treaty which could enrich both parts of J&K as well as both countries.

The portfolio of activities would require periodic meetings and the establishment of interlocking protocols and institutions and services, such as in the fields of transport and communications. Over time, it is possible to envisage the evolution of overarching structures and mechanisms for cross-border consultation and regulation with regard to agreed matters such as trade, economic cooperation, tourism, visits, education and cultural exchange and much else, leading to the gradual emergence of a wider institutional framework of trans - J&K cooperation with condominal characteristics.

Informal confabulation could mature into more formal joint meetings of legislators and professionals from the two sides in Srinagar/Jammu/Leh and Muzaffarabad/Gilgit/Skardu and the establishment in due course of certain joint pan-J&K bodies with consultative and even executive status. Funding could come from contributions from either side or from the proceeds of joint ventures such as a friendship hydel project in J&K feeding into the Indian and Pakistani grids. Larger sub-regional cooperation embracing both sides of J&K and the contiguous provinces of India and Pakistan and further may also develop at a later stage in the same manner as is now happening in the eastern region of the Subcontinent.

The kind of cross-border institutional development envisaged under the Anglo-Irish Agreement of April 1998 is illustrative of a somewhat similar process with regard to Ulster.

The development of SAFTA and other SAARC institutions would reinforce intra-Kashmiri cooperation. Srinagar, for one, could become the location of appropriate regional and international institutions.

J&K, so long the apple of discord, could well become the fulcrum of a new and positive Indo-Pakistan relationship. Borders and sovereignties will begin to matter less, as elsewhere around the world, as civil society comes centre stage and people, commerce, culture and ideas flow freely across national boundaries. As the two parts of J&K draw closer in this new environment, they could be declared a zone of peace, jointly defended by India and Pakistan.

At appropriate stages, these understandings could be formalised in Indo-Pakistan or even four-way agreements that guarantee their sanctity. This would lead ultimately to a joint Indo-Pakistan request for deletion of the Indo-Pakistan question (as the Kashmir question is formally listed in the GeneralAssembly) from the United Nations agenda.

The Kashmir question has thus far been tossed around only within a framework of three options: the status quo, secession or independence. None can bring lasting peace. There is a fourth option that offers the people of J&K a means of realising azadi or self-determination on both sides without unravelling either India or Pakistan. Such an unfolding would bring these two neighbours together in friendship and progress as the 1947 partition plan essentially intended. Fifty years on, it is not too late to endeavour to realise a vision that offers peace with honour to these estranged neighbours.

CHAPTER 10

Foreign Policy

*Salman Khurshid**

India's prolonged conflict with Pakistan is described by Pakistanis as the unfinished agenda of 1947. The description is unexceptional minus its intended normative implications. By their very nature some bilateral conflicts and disputes defy quick-fix solutions. Often they are relegated to the political backburner or get diluted with the passage of time or even overshadowed by subsequent events. A preferred method of conflict resolution in contemporary India is to indefinitely and consciously postpone dealing with the core of intricate problems. Procrastination is often a result of inertia rather than the outcome of an analytical assessment of the costs and benefits of postponement. Thus, the main consideration in not pursuing a solution to the J&K issue expeditiously is far from clear.

Pakistan's idea of the unfinished agenda is partly conceptual-ideological and partly strategic. Its preoccupation is to acquire J&K beyond the occupied territories. However, having discovered that there is no immediate and direct or even indirect route of fulfilling that hope, Pakistan has little option but to keep the conflict alive and modulate its intensity consistent with varying trends in global politics.

The Kashmir issue is perforce a foreign policy problem given Pakistan's involvement. As India thinks about peace and stability in the State it must consider whether its present approach to relations with its neighbour contributes to or derogates from its Kashmir policy. Indian foreign policy and its approach to Pakistan over the past ten years have to be seen against the enormous changes that have occurred in the world as also in India. In a turbulent time, India has managed its relations with others with some success. For the future, however, a change in emphasis and style is necessary. The foreign policy side to Kashmir policy has to take account of the following: the nature of the Line of Control (LOC) and the status of Pakistan Occupied Kashmir (POK); the overall nature of Indian foreign policy in a new era, particularly towards the U.S. and China; and relations with Pakistan.

It is argued here that India should accept that the LOC is a de facto division and that New Delhi must consider anew its obligations and responsibilities towards Pakistan Occupied Kashmir. In order to persuade Pakistan to accept the status quo, India must make various changes in its foreign policy, particularly in dealing with the U.S. and China. Finally, India has to do a number of things internally, with Pakistan, and with potential third parties to move both countries towards acceptance of the LOC "solution" and the construction of long-term peace and stability

The Line of Control and the Status of POK

The Simla Agreement and its concomitant conversion of the Cease Fire Line into the Line of Control (LOC) must inform India's approach in dealing with the question of occupied territories. This, unfortunately, has not happened, Although the legislative seats representing the occupied territories remain conspicuously and symbolically vacant in the J&K Assembly, no other indication

Salman Khurshid is former Minister of State for External Affairs of the Government of India. He is a prominent leader of the Indian National Congress and a lawyer for the Supreme Court of India.

of the country's umbilical link with the people of that area are manifest. There is no provision for the financing of municipal services for the area, actual or contingent. There is no formal or informal system of handling the expectations and rights of the citizens of that region. For example, is a resident or a domicile of the occupied territories entitled to study in Indian universities as an Indian student? Moreover, how does he or she come to India in the first place?

De facto cognizance of Pakistan's presence in the occupied territories is evident in several ways. The important point though is that, by its very nature, this cognizance does not imply or lead to de jure acceptance of the status of the occupied territories, a point that is not well enough appreciated. An example is illustrative. The Kazakhs have recently proposed that a trade convoy traverse the ancient silk route to India. This is an attractive proposal because it would link India with Central Asia, an important part of our diplomacy and trade. However, New Delhi has rejected the idea on the grounds that the convoy would cross the occupied territory and be cleared at the border by Pakistani customs officials.

In sum, there are blind spots in India's view of Kashmir. Additionally, resolution of the fundamental quarrel remains blocked by rigid preconditions on both sides. There are therefore no easy answers to the difficulties of dealing with Pakistan. Earlier attempts to activate the spirit of Simla, especially under late Prime Minsiter Rajiv Gandhi, and a conscious endeavour to find common ground on certain peripheral but significant issues was rewarded with a thaw in relations. However success was shortlived. The pendulum then swung dangerously to the other extreme with the Brasstacks crisis of January 1987. Today, New Delhi once again senses an opportunity in dealing with Islamabad. But blind spots and preconditions on both sides continue to make an opening to Pakistan a slow and tortuous process. The danger, as in 1987, is that if the two countries do not make progress, they could regress and find themselves in a crisis. How India should approach the relationship with Pakistan is a vital matter. Clearly, though, that approach must be part of a much broader conception of foreign policy choices.

Indian Foreign Policy

India suffers from a mild schizophrenia in international relations. At one level, India wants to be a global leader and not merely live off its diplomatic inheritance and successes. Of course, the Nehruvian world view in which India was a leader of the Non aligned Movement remains a cherished part of India's political landscape. But time has taken its toll and the relevance of its original foreign policy moorings has steadily declined. Political freedom has been achieved by the nations of Asia and Africa. On economic freedom the Third World does not always think alike or with equal feeling and involvement. The Cold War was both a challenge and a loadstone to test the commitment of NAM. Its disappearance has in may ways deprived the Movement of its points of reference. Meanwhile, the race for the leadership of the world has moved to the economic track. In a sense, that has always been the ultimate test of success in international affairs. India has a claim to leadership in the basis of its vast economic potential, but the country will be watched closely for actual performance, with China as a constant contrast.

The other side of India's foreign affairs personality, and where it has repeatedly slipped from a leadership role, is in its relations with its neighbours. Another reason India has lost ground in terms of its regional leadership is the growing stress in "reciprocity" in its dealings with its neighbours. Historically, reciprocity played a negligible role in practical formulations of India's policy. That an insistence on reciprocity crept into its relations with its neighbours in South Asia is unfortunate. The mindset of reciprocity arises from a singleminded devotion to perceived national interests and a narrow conception of self interest, as opposed to larger international goals and a broader conception of self interest, and has been a noticeable element in the foreign policy of great powers. It is perhaps forgivable in India's conduct as well. But for India such an emphasis sits very uncomfortably. A third reason Indian leadership of the region has declined is its preoccupation

with Pakistan's capacities and capabilities. Indian leaders and opinion makers spend too much time on Pakistan and what it supposedly thinks, and too little on what it actually does. While this was understandable to a degree during the Cold War, it is no longer justified.

For the United States, to a lesser extent, China, and the fuel-rich Islamic countries, there were good historical, ideological, and economic reasons for close ties with India. However, Cold War compulsions for the U.S. and China, and Islamic solidarity in the case of the Muslim countries, made Pakistan the cornerstone of their policy towards South Asia. U.S. preoccupation with the containment of the USSR was used by Pakistan to portray itself as a willing and invaluable ally. Not wishing the U.S. to have a carte blanche in its immediate neighbourhood, China chose to lend a helping hand to Pakistan as well. However, much of this has changed with the end of Cold War. U.S. and Chinese attachment to Pakistan obviously cannot disappear entirely. There is a history of institutional contacts with Pakistan. Pakistan is also an outlet for U.S. and Chinese arms. That said, India finally has the opportunity to reorient itself and to redefine its foreign policy objectives in respect of the U.S., China and Pakistan.

Just as India's conflict with Pakistan become a reference point in the West, a reverse process of changing perceptions in the West will provide impetus for more creative thinking in India about its estranged neighbour. Crucial to a programme of new thinking are relations with the U.S. A real overhaul of India's relations with the U.S. is unlikely without some reconciliation on the following: India's nuclear and missile policy; human rights and good governance; and economic reforms.

Nuclear and Missile Policy

There are too many views on India's nuclear policy amongst too few Indians. Naturally, as in other countries, transparency in such matters is neither demanded by the public nor voluntarily offered by the government. The purposeful ambiguity in nuclear matters has not been entirely without advantages, both domestic and international. Meanwhile, the high point of the global nuclear arms race has perhaps passed, even though real and effective disarmament remains a dream.

As India thinks about its nuclear stance for the future, it will have to consider seriously how Pakistan could possibly use a nuclear weapon as an instrument of aggression rather than a defensive shield or deterrent. If India does not have ill designs on Pakistan, Islamabad has no need for the ultimate defensive measure. If Pakistan, in turn, does not opt for a nuclear race, India does not need to do so. Pakistan is too small and too modestly endowed to be a constant and continuing challenge to India. Besides, battles and wars are not only about armies and armaments. They are about a society's collective ability and will to wage war. Vietnam proved this point several times, over half a century. The fall of the Berlin wall proved it again in one way; Saddam Hussain's obstinacy proves it in another way.

Security and risk management are the paramount reasons for India's nuclear option. India's nuclear ambition has to be thought of also in terms of its desire to be seen as a leader amongst nations. A privileged club of nuclear powers is unacceptable in principle to India. Having said that, new nuclear thinking is necessary. Although India took the threat of international isolation in its stride during the debate on the Comprehensive Test Ban Treaty (CTBT) and refused to be self-conscious about keeping the company of Libya on this issue, new ground has to be broken in India's nuclear thinking. There is certainly a danger of India being irrelevant on this major world issue and that does not augur well for the persona of a prospective permanent member of the UN Security Council. India must search for a path beyond the CTBT.

New Delhi has built a base for nuclear cooperation with Pakistan: the agreement not to use nuclear weapons against each other's nuclear installations is that base. Here too India can go further. The Indian Ocean as a zone of peace, dialogue in the ASEAN Regional Forum (ARF), Pakistan's more cooperative participation in the SAARC Preferential Tariff Arrangement (SAPTA)

and its eventual entry into the Indian Ocean Rim Association for Regional Cooperation (IOR-ARC), all provide a positive backdrop for engaging Pakistan on this issue.

Pakistan has no stated cause for concern other than India. The Arabs have found an acceptable solution to the nuclear dimension of their long and bitter confrontation with Israel. In fundamentals, the thorny issues of conflict are far from resolved in West Asia, but they have chosen to move on and do not seem to have regretted it. Egypt and India are the two surviving founding fathers of NAM. They may have something to learn from each other in the matter of adjusting to the post Cold War World. Equally, Pakistan would benefit from the experience of its Islamic friends.

Curiously, India's risk assessments, which concentrate on Pakistan justifiably though somewhat exaggeratedly, have tended to skip over China. The Chinese are sensitive people, with a very definite world view, and India-China differences persist. India may have learnt to handle its differences with the Chinese, but it is a long way from eliminating them. And, although it is directed at other countries and not against India, China does have a nuclear arsenal. Nevertheless, India has shown far greater accommodation in creating goodwill and reaching out to China. And, in contrast to 1962, China acts with new confidence knowing that it has graduated to the league of great players.

Having repaired the relationship with China has benefited India enormously in the last decade: India did not have to constantly worry about a second front. For the future, India and China together would be a formidable combination and a point of view to contend with in international affairs; a larger arrangement of the two with the Russian Federation would put to rest the concern about a unipolar world. Further, consolidation of our mutual relationship will gradually wean China away from its special relationship with Pakistan.

The ingredients of a goodwill package for China are largely already in Beijing's control. Incremental measures may be required to boost this effort. It is imperative, in addition, that economic interdependence with China be enhanced. For various objective reasons, this will not be easy. For instance, India and China specialise in a similar basket of products. However, there are opportunities for linkages and cooperation. The two countries may be able to jointly explore nascent opportunities offered by South Asia's and Pacific Asia's growing and dynamic markets and changing investor proclivities. India and China should also dramatically enhance people-to-people contacts. There is an urgent need for equivalents of "cricket diplomacy" and Nusrat Fateh Ali concerts.

As confidence and exchange grows, India will have to carefully sensitise China to its legitimate nuclear concerns. China's ability and agility in grasping pragmatic solutions ("one country, two systems") should not be underestimated. Even before registering any gains on nuclear issues, New Delhi might be able to get an effective cap on China's missile and missile technology transfers, so as to dry up Pakistan's most reliable source of supply.

Human Rights and Good Governance

On human rights and good governance, the gap in perceptions between the U.S. and India has diminished substantially since the critical phases of the insurgency in Punjab and J&K. There is a steady growth of human rights institutions in India, and the courts of the country are increasingly demanding accountability across a wide spectrum of governmental activity. Indians should not be uptight about international expectations of transparency. India has a great deal to be proud of and very little to hide. Across-the-board upgrading of the law enforcement machinery and improving its functioning is an Indian priority. We have to strive for the highest human rights standards without succumbing to the temptation of short-cut legislation, even in special and sensitive areas. The monumental misuse of TADA and its somewhat doubtful efficacy should be a reminder that it is not the law but the machinery which implements the law which calls for attention.

While India does not like being lectured to on human rights, and understandably so, the

developed countries' insistence on social sector commitments for health care and education should not be an irritant. India, of course, has to press with determination for the transfer of greater resources and technology to the Third World. But there is a growing realisation that it profits India little to link good governance at home with the responsibilities of the developed world.

The Indian Market

Economic liberalisation is still somewhat of an enigmatic and ill-prepared recipe for growth. India has moved forward in many areas of reform not because politicians desired or supported it but despite them. The very civil servants who had assembled economic controls decided to dismantle them. Essentially, India has opened up to the private sector those areas of economic activity where the state was unable to occupy new space. On the other hand, previously occupied space is still to be adequately vacated by the state in spite of bold pronouncements. If strategy not dogma informs decisions, as in China, the government can negotiate the best deals going with foreigners and acquire formidable clout in the constituencies of Western decision makers. This, as Beijing has understood, is the answer to foreign policy pressures against it.

Dealing with Pakistan

Changes in the policies of the U.S. and China towards India, new thinking in India on nuclear issues, a detente with China leading to a retrenchment of Beijing's involvement in Pakistan's military programmes, a strengthening of India's human rights machinery, and India's growing economic clout, all these should end the tendency to equate India and Pakistan.

None of this means isolating Pakistan. At no stage should India or anyone else give Pakistan the impression that they have been forsaken or defeated. Pakistan will and must retain its goodwill and friendship around the globe and may even attract compensatory economic assistance. Without the hope of a third party or multilateral intervention, though, Pakistan will apply itself to a bilateral solution with India with a greater sense of purpose. India's goal is ultimately a matter of helping Pakistan to accept the reality of an "imperfect" Partition and, together with its neighbour, overcoming the persisting fallout of monumental divisions.

How can India deal with Pakistan so as to bring it round to the LOC solution? The basic method is to highlight the costs of conflict — to Pakistanis but also, most importantly, to Indians. A study of negotiations in the Vietnam peace talks, the Middle East peace process and the Northern Ireland peace initiative provides some useful ideas. There are two distinct lines of approach. The first is where peace has become inevitable (as in Vietnam) and the objective is to make the most of it at the lowest cost. The other approach is in the case where parties to the conflict are getting diminishing returns from hostilities and/or their respective countries have developed considerable peace constituencies (as in the Palestine-Israel conflict).

The second approach may fit India and Pakistan better. The failure of the proxy war in Kashmir has led to conflict fatigue on both sides. For Pakistan, the fruitless and unmanageable contemporary version of the great game in Afghanistan is an added burden. Both countries may therefore be ready to pay heed to peace constituencies. If they have not yet done so, it may be that, unlike in the Palestine-Israel case, these constituencies have not sufficiently developed to support and justify a retreat from belligerence. Peace constituencies could be developed by publicising the costs of conflict, by instituting softer borders between the two countries, by empowering Kashmiris, and by promoting track two contacts between the two countries.

The Cost of Conflict

In India, the costs of the lingering conflict with Pakistan must be systematically analysed. The opportunity cost of insurgency and terrorism in Punjab and J&K is perhaps many times the actual cost of security operations. While the direct challenge of subversion has been substantially overcome, India still must deal with the larger effects. Unfortunately, a serious cost-benefit

analysis of our defence budget and security-related spending is lacking. How much this spending can be scaled down with a friendly Pakistan is anyone's guess, but it would certainly be substantial. Since social sector spending has to be increased dramatically in the coming years in order to preserve the political viability of economic reform, the issue of "defence and development" must be joined.

Reckoning and publicising the costs of defence is a vital part of the approach for a more lasting peace. But it is not enough. A lasting peace requires strong leadership and a peace constituency behind that leadership. Extraordinary acts of statesmanship are called for, sometimes at enormous personal risk. The Pakistan leadership obviously has a more difficult job because it has to contend with fifty years of a sense of hurt and deprivation. Meanwhile, India must earnestly search for its farsighted and courageous leaders and its own peace constituencies. There are some well-meaning public figures and some enlightened businessess who have an explicit interest in repairing relations with Pakistan. But India is a large country and the costs of estrangement with Pakistan are so diffused and invisible that it does not impact any particular group. The votes of farmers and the bread of the latter does not depend on a lasting peace. At the same time, the common citizen is largely unconcerned about the issue and is easily swayed by egoism and misplaced patriotism when provoked by shortsighted politicians.

India needs a leader to lead from the front. The Indian public has to be educated about the opportunity costs — the loss of fuel and energy access to Central Asia, markets in the entire Economic Cooperation Organization (ECO), pipelines and transit routes, and two-way tourist potential. If India lacks an articulate and easily identifiable peace constituency, there is a natural but mute peace group amongst divided families (the ultimate price of partition). These families suffer in silence because no one speaks for them. India can begin with them and their relatives on the other side. A foolproof system can be devised to permit them visiting rights and rights of residence. To do this, India will have to overcome its security paranoia. Strong leadership has a role here too.

Softer Borders

The Irish experience is also very instructive for India. Although conflict fatigue has had an important influence in fostering the movement for peace in Ireland, the steadily growing irrelevance of borders has undermined the ideological rationales of the quarrel. With the European Union virtually obliterating national boundaries for travel and trade, the most obvious manifestation of territorial jurisdictions no longer matter. In a sense, the substance of the "cause" has vanished, leaving behind only political rhetoric.

Would softer borders help in South Asia? In the India-Pakistan case, some commentators speak of a soft border between the two parts of Kashmir as part of a final settlement between the two countries. In fact, what is probably needed is a de facto soft border which would in turn lead to a settlement. The usual objection to a more porous though regulated border is the fear of subversion. This should not be overstated. The causes of subversion are on India's side of the fence and need to be addressed or dealt with internally. In addressing them, one thing should be clear: if the people of Kashmir do not support India's effort to come to grips with the situation with Pakistan, that is, if they do not become an active peace constituency, it is unlikely to succeed.

Empowering Kashmiris

Kashmiri support will depend on decentralising and devolving power to the State. India's answer to the call for decentralisation and devolution is State autonomy within a federal structure. Autonomy and federalism are not necessary evils; they are good prophylactics against the disease of regionalism and separatism. If they are provided as part of the reform of our governance structures, rather than concessions in the face of ugly and violent situations, they can produce politically wholesome results.

Kashmir's support for various ways of dealing with Pakistan will also depend on a dispassionate

and sensitive exploration of the feelings of Kashmiris and effective and sincere efforts to remove the insecurities which have grown over the decades. There must be a greater willingness to listen to Kashmiri voices in finding a solution to a problem which concerns them directly. It is crucial to understand the psyche of Kashmiris. They were backward and indigent and therefore took the subsidies and assistance offered by New Delhi. But this compromised their dignity and self esteem. Kashmiris want to earn with respect, not be handled by someone who seeks to control them. Kashmiriyat hides an immense sense of the self vis-a-vis others, even as its Sufi heritage stresses the annihilation of the self.

Track Two Processes

India must use the track-two process to develop a peace constituency in both countries. There has been some cynicism in India about superannuated government officials and military personnel being able to contribute anything of substance to bilateral diplomacy. But track-two processes have their own pace and inconspicuousness.

India's use of the track-two method must be subtle. For instance, the advantages of the instrument would be defeated by extending overt patronage to them. At the same time, India must find ways of showing that track-two deliberations are valued and can carry weight with incumbent policy makers. Track-two participants need to be treated better. By giving foreign participants restricted visas (e.g. for one or two cities only), Indian authorities contribute about as much to our security as they do by prohibiting tourists from photographing each other at international airports and picturesque bridges. Furthermore, track two should not only be accommodated but actively encouraged. Thus, there is no need to have the Americans and Europeans pay for it; Indians should pay for it. Finally, track two should not remain limited to small groups of retired personnel and erudite academics. A broadened base of contacts is vital. Regular contacts between professional bodies, business and industry as well as travel and trade associations, academics and Parliamentarians need to be dramatically augmented. A substantial number of Kashmiri participants, at least on our side, must also be ensured.

Track two operates at another level which must also be encouraged. Regular information exchange through greater media coverage of each other should bring the two people closer. The greatest potential for a meaningful dialogue between India and Pakistan lies in the cultural overlaps and social and economic aspirations of great similarity. Access to each other's media and publishing will dramatise these overlaps and the similarity of aspirations. The more Indians and Pakistanis rediscover each other as peoples, the less likely are their governments to find cause for hostility.

A No-War Pact and Third Party Involvement?

To improve the climate between India and Pakistan, it has often been suggested that a no-war pact would be helpful. Some have suggested that third parties should play a role in breaking the stalemate that often occurs in bilateral discussions and negotiations. From India's point of view a no-war pact and third party involvement should not be unwelcome instrumentalities provided that they are seen as supplements to a larger programme of the kind outlined here and provided that they respect certain fundamental concerns and reservations.

No War Pact

The Pakistani offer of a no-war pact, as the basis for peace and stability between the two countries, should not be unacceptable to India. Although New Delhi did not respond to the offer, India has continued to act in the spirit of a no-war agreement. India has shown great restraint in dealing with Pakistan: it has observed the spirit of a no-war pact even if it has not signed a formal document. This restraint is crucial if there is to be a solution to the Kashmir dispute. A no-war pact should build on India's restraint.

As an aggrieved party, India has been remarkably tolerant. Espionage and other unfriendly activities are commonplace between nations with uneasy relationships. But India has

suffered far greater injury in the proxy war in Kashmir and the devastating bomb blasts which shattered the peace of Mumbai. Few countries tolerate such blatant violation of their citizens' lives and safety. The Lockerbie disaster and the U.S.-sponsored embargo against Libya in retaliation is an example in point. Israel's relentless hunting down of the Hamas leaders and its use of military firepower against suspected Palestinian strongholds is another example.

Since 1989, India has repeatedly charged Pakistan with sabotage and subversion. New Delhi has even occasionally threatened to use force. In the end, though, it has conspicuously refrained from retaliation or hot pursuit. This is consistent with its general commitment to restraint in regional affairs. Only once was India's hand forced outright and that was during the military crackdown in East Pakistan in 1971. In that case, the extraordinary burden of ten million refugees and the prospect of continuing oppression against the nationalist and democratic forces of East Pakistan left India very little choice.

If a no-war pact is not to be stillborn and indeed counterproductive, it has to be the logical outcome of gradual confidence building. Furthermore, it must be a logical extension of the Simla Agreement, not a substitute or replacement. Just as one cannot unscramble an egg, the twenty-five year history of the Simla Agreement cannot be wished away. Curiously, Pakistan's attempt to escape the agreement has obscured possibilities which might not be entirely to its disadvantage.

The Simla Agreement has served India and Pakistan well and it should serve as the starting point for confidence building and movement towards a formal no-war pact. Surely it is no coincidence that India and Pakistan have not fought since the Simla Agreement was signed. There have been moments of great tensions since 1971. The Brasstacks crisis of 1987 represented one such moment. India has also been subjected to what has been described as a proxy was in J&K since 1989. Yet the two countries have avoided war, at least in part because of the spirit of the Simla Agreement.

Pakistan has not explored the immense possibilities of the Agreement. This is shortsighted of Islamabad. When the two countries have really tried, they have made agreements work. The sharing of the Indus River water is the best instance of a productive and sustained agreement. Negotiations have also produced some near successes. India and Pakistan have twice come dramatically close to a settlement on Siachen, only to let it slip at the last minute. On Wullar Lake and Tulbul, the two managed remarkable progress and also came close to a negotiated solution. The annual exchange of lists of nuclear installations, which is part of the agreement not to attack nuclear facilities, has proceeded on schedule.

Third Parties

Third parties, in principle, could help improve the atmosphere between India and Pakistan. However, India has resolutely refused to accept third party mediation or good offices, even of the U.N. To appreciate India's stand, it is necessary to understand what Kashmir means for India.

For India, the Kashmir issue is not about territory or economic interests and natural resources. Nor is Kashmir of critical importance to India's security in the narrow sense: Kashmir's accession actually brought India's main security threats in its wake. Kashmir's importance for India is related to a higher principle: the State and its people define the Indian nation in more ways than one. Pakistan chose to be a religious state for Muslims, Jinnah's Assembly speech notwithstanding. India, on the other hand, chose to be a secular home for Hindus, Muslims, and others alike. It is Pakistan's intention to carve out J&K on the explicit claim of its Muslim majority population. But there are 120 million Muslims across the length and breadth of India, in many places in considerable concentrations. Indians may have reluctantly accepted Partition, but they certainly cannot endorse its logic. To artificially extend that logic and unsettle the status quo of fifty years is bad enough, but in the process to question the accepted and cherished definition of India is lethal. This is too fundamental an issue to allow aliens to tinker with, no matter how well meaning and friendly they might be. The Kashmir issue is

therefore entirely distinct from most other conflicts in the world and is beyond the pale of international adjudication.

India has therefore refused to countenance third party mediation and good offices, arguing strenuously that this must be confined to ordinary bilateral disputes. Having said that, working consciously with appropriate countries to create an atmosphere congenial for meaningful India-Pakistan talks would not be out of place or inconsistent with New Delhi's pronouncements on Kashmir.

So, for example, Central Asia has several countries that can promote a cogenial atmosphere between India and Pakistan. They could use the ECO network and trade relations. Others, like Iran and Saudi Arabia, will be of great help simply by not actively subscribing to Pakistan's point of view. Iran has already shown its keenness to be of help, although that is often dexterously combined with its ambition for a greater leadership role in Asia. It has tested several formulations for improved atmospherics between India and Pakistan, some of which at this stage would not be acceptable to New Delhi. Saudi Arabia, on the other hand, has a rather unidimensional view, reinforced by the growing drift in relations between the Kingdom and India. A brief ripple of mutual interest was created by the Joint Economic Commission visit from India headed by the then Finance Minister, Dr. Manmohan Singh. But the warming up was very temporary.

One decision which India should specifically and urgently take is to bid for membership of the Organization of Islamic Conference (OIC). Historically and logically, there is no justification for denying India entry. There will be resistance from some quarters, but there are others who have been repeatedly embarrassed by their helplessness within the OIC despite excellent relations with India. Some of these countries would be delighted by India's presence in ensuring a greater balance within the grouping. New Delhi should not agonise over joining such an organisation: OIC is formally recognised by the U.N., and India itself constantly deals with it.

Conclusion

The circumstances are relatively propitious for India and Pakistan to emancipate themselves from the morbid claims of Pakistan on Kashmir. But emancipation cannot come about as a part-time enterprise. Reacting to events will never fit the bill. India has to turn its attention to a larger and longer term strategy for bringing Pakistan round to the desirability of the status quo. A workable strategy is within India's grasp. The time is ripe for a foreign policy which comes to the aid of domestic policy in bringing peace and stability to Kashmir.

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